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## Section 5 INSTRUCTIONAL ARRANGEMENTS

### I. INSTRUCTIONAL ARRANGEMENTS AND SETTINGS

*In addition to information contained in this section, please refer to the [Student Attendance Accounting Handbook on the TEA website at: http://tea.texas.gov/index2.aspx?id=25769817607](http://tea.texas.gov/index2.aspx?id=25769817607)*

For the most up-to-date information, see the TEA Student Attendance Accounting Handbook:  
<http://tea.texas.gov/index2.aspx?id=25769817607>

#### TAC §89.63. Instructional Arrangements and Settings.

- (a) The Sherman Independent School District will provide services with special education personnel to students with disabilities in order to meet the special needs of those students in accordance with 34 Code of Federal Regulations, §§300.114-300.118.
- (b) Subject to §89.1075(f) of this title (relating to General Program Requirements and Local District Procedures) for the purpose of determining the student's instructional arrangement/setting, the regular school day is defined as the period of time determined appropriate by the admission, review, and dismissal (ARD) committee.
- (c) Instructional arrangements/settings shall be based on the individual needs and individualized education programs (IEPs) of eligible students receiving special education services and shall include the following.
  - (1) **Mainstream.** This instructional arrangement/setting is for providing special education and related services to a student in the regular classroom in accordance with the student's IEP. Qualified special education personnel must be involved in the implementation of the student's IEP through the provision of direct, indirect and/or support services to the student, and/or the student's regular classroom teacher(s) necessary to enrich the regular classroom and enable student success. The student's IEP must specify the services that will be provided by qualified special education personnel to enable the student to appropriately progress in the general education curriculum and/or appropriately advance in achieving the goals set out in the student's IEP. Examples of services provided in this instructional arrangement include, but are not limited to, direct instruction, helping teacher, team teaching, co-teaching, interpreter, education aides, curricular or instructional modifications/accommodations, special materials/equipment, positive classroom behavioral interventions and supports, consultation with the student and his/her regular classroom teacher(s) regarding the student's progress in regular education classes, staff development, and reduction of ratio of students to instructional staff. *The role of the special education teacher for a fully included mainstream student is to follow the IEP for those students on their assigned case load. The IEP is individualized therefore student's will receive varying degrees of specially designed instruction described above. Qualified special education personnel must be involved in the implementation of the student's IEP through the provision of direct, indirect, and/or support services - to the student in the general education classroom and/or; in collaboration with the student's general education classroom teachers(s). Monitoring student progress in and of itself does **not** constitute a special education service. If certified special education personnel are **only monitoring** student progress, mainstream special education funding cannot be generated. **Requirements Related to Teachers Providing Instruction in Mainstream Settings:** A student with a disability receives specially designed instruction. The specially designed instruction documented in the IEP is provided by special education personnel. One teacher, even if dually certified, may not serve in both a general education and a special education role simultaneously when serving students in grades K–12. Students with disabilities who are aged 3 or 4 years may have an instructional arrangement/setting code of 40, mainstream, if special education services are provided in classroom settings with nondisabled peers. The only context in which a dually certified teacher may serve in both a general education and a special education role is in an early childhood program for students aged 3 or 4 years. TEA-SAAH*
  - (2) **Homebound.** This instructional arrangement/setting is for providing special education and related services to students who are served at home or hospital bedside.
    - (A) Students served on a homebound or hospital bedside basis are expected to be confined for a minimum of four consecutive weeks as documented by a physician licensed to practice in the United States. Homebound or hospital bedside instruction may, as provided by local district policy, also be

provided to chronically ill students who are expected to be confined for any period of time totaling at least four weeks throughout the school year as documented by a physician licensed to practice in the United States. The student's ARD committee shall determine the amount of services to be provided to the student in this instructional arrangement/setting in accordance with federal and state laws, rules, and regulations, including the provisions specified in subsection (b) of this section.

- (B) Home instruction may also be used for services to infants and toddlers (birth through age 2) and young children (ages 3-5) when determined appropriate by the child's individualized family services plan (IFSP) committee or ARD committee. This arrangement/setting also applies to school districts described in Texas Education Code, §29.014.

#### Homebound Notes

To be placed in the special education homebound instructional setting, a student aged 6 years or older must meet the following four criteria:

- The student is eligible for special education and related services as determined by an ARD committee.
- The student is expected to be confined at home or hospital bedside for a minimum of 4 weeks (the weeks need not be consecutive).
- The student is confined at home or hospital bedside for medical reasons only.
- The student's medical condition is documented by a physician licensed to practice in the United States. You can access the Texas Medical Board's searchable database of licensed physicians at: [https://public.tmb.state.tx.us/HCP\\_Search/SearchInput.aspx](https://public.tmb.state.tx.us/HCP_Search/SearchInput.aspx)

The student's ARD committee determines the amount of services to be provided to the student in this instructional arrangement/setting.

- The teacher serving a student at home or hospital bedside ("homebound teacher") while the student is in the special education homebound setting must be a certified special education teacher. Beginning with the 2016-17 school year, schools and teachers only needed to meet state requirements for certification. The federal term of "highly qualified teacher status" no longer applies. It is important to note that all state certification requirements adopted in State Board for Educator Certification rules remain in place. For the certification required for particular assignments, see 19 TAC Chapter 231, available at: <http://ritter.tea.state.tx.us/sbecrules/tac/chapter231/>
- A student aged 6 years or older who is served in the special education homebound instructional setting retains the same ADA eligibility code he or she had before receiving homebound services, regardless of how many hours the student will be served in the homebound instructional setting.
- The placement of a student who is expelled must not be changed to the homebound instructional setting (see [10.6.2. Disciplinary Removals of Students with Disabilities](#) for detailed information regarding appropriate instructional setting codes and ADA eligibility when expelling students who are receiving special education and related services).

#### **General Education Homebound (GEH)**

Any general education student should be referred to the local campus GEH committee.

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- (3) **Hospital class.** This instructional arrangement/setting is for providing special education instruction in a classroom, in a hospital facility, or a residential care and treatment facility not operated by the school district. If the students residing in the facility are provided special education services outside the facility, they are considered to be served in the instructional arrangement in which they are placed and are not to be considered as in a hospital class.
- (4) **Speech therapy.** This instructional arrangement/setting is for providing speech therapy services whether in a regular education classroom or in a setting other than a regular education classroom. When the only special education or related service provided to a student is speech therapy, then this instructional arrangement may not be combined with any other instructional arrangement.
- (5) **Resource room/services.** This instructional arrangement/setting is for providing special education and related services to a student in a setting other than regular education for less than 50% of the regular school day.
- (6) **Self-contained** (mild, moderate, or severe) regular campus. This instructional arrangement/setting is for providing special education and related services to a student who is in a self-contained program for 50% or more of the regular school day on a regular school campus.
- (7) **Off-home campus.** This instructional arrangement/setting is for providing special education and related services to the following, including, but not limited to, students at South Texas Independent School

District and Windham Independent School District:

- (A) a student who is one of a group of students from more than one school district served in a single location when a free appropriate public education is not available in the respective sending district;
- (B) a student in a community setting or environment (not operated by a school district) that prepares the student for postsecondary education/training, integrated employment, and/or independent living in coordination with the student's individual transition goals and objectives, including a student with regularly scheduled instruction or direct involvement provided by school district personnel, or a student in a facility not operated by a school district (other than a nonpublic day school) with instruction provided by school district personnel; or
- (C) a student in a self-contained program at a separate campus operated by the school district that provides only special education and related services.

TEC §89.1094 Students Receiving Special Education and Related Services in an Off-Campus Program.

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise.

- (1) School district--The definition of a school district includes independent school districts established under Texas Education Code (TEC), Chapter 11, Subchapters A-F, and open-enrollment charter schools established under TEC, Chapter 12, Subchapter D.
- (2) Off-campus program--An off-campus program includes special education and related services provided during school hours in a facility other than a school district campus.
- (3) Off-campus program provider--An off-campus program provider is an entity that provides the services identified in subsection (a)(2) of this section and includes:
  - (A) a county system operating under application of former law as provided in TEC, §11.301;
  - (B) a regional education service center established under TEC, Chapter 8;
  - (C) a nonpublic day school; or
  - (D) any other public or private entity with which a school district enters into a contract under TEC, §11.157, for the provision of special education services in a facility other than a school district campus operated by a school district.

(b) Off-campus program placement. A school district may contract with an off-campus program provider to provide some or all of the special education and related services to a student in accordance with the requirements in this section.

- (1) Before the school district places a student with a disability in, or refers a student to, an off-campus program, the district shall initiate and conduct an onsite review to ensure that the off-campus program is appropriate for meeting the student's educational needs.
- (2) Before the school district places a student with a disability in, or refers a student to, an off-campus program, the district shall initiate and conduct a meeting of the student's admission, review, and dismissal (ARD) committee to develop an individualized education program (IEP) for the student in accordance with 34 Code of Federal Regulations (CFR), §§300.320-300.325, state statutes, and commissioner of education rules in Chapter 89 of this title (relating to Commissioner's Rules Concerning Special Education Services).
- (3) The appropriateness of the off-campus program for each student placed shall be documented in the IEP annually. The student's ARD committee may only recommend an off-campus program placement for a student if the committee determines that the nature and severity of the student's disability and special education needs are such that the student cannot be satisfactorily educated in the school district.
  - (A) The student's IEP must list which services the school district is unable to provide and which services the facility will provide.
  - (B) The ARD committee shall establish, in writing, criteria and estimated timelines for the student's return to the school and document this information in the IEP.
  - (C) The school district shall make two on-site visits annually, one announced and one unannounced, to:
    - (i) verify that the off-campus program can, and will, provide the services listed in the student's IEP that the off-campus program has agreed to provide to the student;
    - (ii) obtain written verification that the facility meets minimum standards for health and safety and holds applicable local and state accreditation and permit requirements; and
    - (iii) verify the educational program provided at the off-campus program facility is the least restrictive environment for the student.
- (4) The placement of more than one student in the same off-campus program facility may be considered in the same on-site visit to a facility. However, the IEP of each student must be individually reviewed, and

a determination of appropriateness of placement and services must be made for each student.

- (c) Notification. Within 30 calendar days from an ARD committee's decision to place a student in an off-campus program, a school district must electronically submit to the Texas Education Agency (TEA) notice of, and information regarding, the placement in accordance with submission procedures specified by the TEA.
- (1) If the off-campus program is on the commissioner's list of approved off-campus programs, the TEA will review the student's IEP and placement as required by 34 CFR, §300.120, and, in the case of a placement in or referral to a private school or facility, 34 CFR, §300.146. After review, the TEA will notify the school district whether federal or state funds for the off-campus program placement are approved. If the TEA does not approve the use of funds, it will notify the school district of the basis for the non-approval.
  - (2) If the off-campus program is not on the commissioner's list of approved off-campus programs, the TEA will begin the approval procedures described in subsection (d) of this section. School districts must ensure there is no delay in implementing a child's IEP in accordance with 34 CFR, §300.103(c).
  - (3) If an off-campus program placement is ordered by a special education hearing officer or court of competent jurisdiction, the school district must notify the TEA of the order within 30 calendar days. The off-campus program serving the student is not required to go through the approval procedures described in subsection (d) of this section for the ordered placement. If, however, the school district or other school districts intend to place other students in the off-campus program, the off-campus program will be required to go through the approval procedures to be included on the commissioner's list of approved off-campus programs.
- (d) Approval of the off-campus program. Off-campus programs must have their educational programs approved for contracting purposes by the commissioner.
- (1) For a program to be approved, the school district must electronically submit to the TEA notice of, and information regarding, the placement in accordance with submission procedures specified by the TEA. The TEA shall begin approval procedures and conduct an on-site visit to the facility within 30 calendar days after the TEA has been notified by the school district. Initial approval of the off-campus program shall be for one calendar year.
  - (2) The off-campus program may be approved only after, at minimum, a programmatic evaluation of personnel qualifications, adequacy of physical plant and equipment, and curriculum content.
  - (3) The commissioner shall renew approvals and issue new approvals only for those facilities that have a contract already in place with a school district for the placement of one or more students or that have a pending request from a school district. This approval does not apply to facilities that only provide related services. Nor does it apply to facilities when the school district, within which the facility is located, provides the educational program. Re-approval of the off-campus program may be for one, two, or three years at the TEA's discretion.
- (e) Funding procedures and other requirements. The cost of off-campus program placements will be funded according to TEC, §42.151 (Special Education), and §89.63(e) of this title (relating to Instructional Arrangements and Settings).
- (1) Contracts between school districts and approved off-campus programs must not exceed a school district's fiscal year and shall not begin prior to July 1 of the contracted fiscal year.
  - (2) Amendments to a contract must be electronically submitted to the TEA in accordance with submission procedures specified by the TEA no later than 30 calendar days from the change in placement or services within the school district's fiscal year.
  - (3) If a student who is placed in an off-campus program by a school district changes his or her residence to another Texas school district during the school year, the school district must notify the TEA within 10 calendar days of the date on which the school district ceased contracting with the off-campus program for the student's placement. The student's new school district must meet the requirements of 34 CFR, §300.323(e), by providing comparable services to those described in the student's IEP from the previous school district until the new school district either adopts the student's IEP from the previous school district or develops, adopts, and implements a new IEP. The new school district must comply with all procedures described in this section for continued or new off-campus program placement.

*The district will follow requirements of TEC §89.1094 for any off-campus placement.*

- (8) **Nonpublic day school.** This instructional arrangement/setting is for providing special education and related services to students through a contractual agreement with a nonpublic school for special education.

- (9) **Vocational adjustment class/program.** This instructional arrangement/setting is for providing special education and related services to a student who is placed on a job (paid or unpaid unless otherwise prohibited by law) with regularly scheduled direct involvement by special education personnel in the implementation of the student's IEP. This instructional arrangement/setting shall be used in conjunction with the student's individual transition goals and only after the school district's career and technical education classes have been considered and determined inappropriate for the student.
- (10) **Residential care and treatment facility** (not school district resident). This instructional arrangement/setting is for providing special education instruction and related services to students who reside in care and treatment facilities and whose parents do not reside within the boundaries of the school district providing educational services to the students. In order to be considered in this arrangement, the services must be provided on a school district campus. If the instruction is provided at the facility, rather than on a school district campus, the instructional arrangement is considered to be the hospital class arrangement/setting rather than this instructional arrangement. Students with disabilities who reside in these facilities may be included in the average daily attendance of the district in the same way as all other students receiving special education.
- (11) **State supported living center.** This instructional arrangement/setting is for providing special education and related services to a student who resides at a state supported living center when the services are provided at the state supported living center location. If services are provided on a local school district campus, the student is considered to be served in the residential care and treatment facility arrangement/setting.
- (d) The appropriate instructional arrangement for students from birth through the age of two with visual and/or auditory impairments shall be determined in accordance with the IFSP, current attendance guidelines, and the agreement memorandum between the Texas Education Agency (TEA) and the Department of Assistive and Rehabilitative Services (DARS) Early Childhood Intervention (ECI) Services.
- (e) For nonpublic day school placements, the school district or shared service arrangement shall submit information to the TEA indicating the students' identification numbers, initial dates of placement, and the names of the facilities with which the school district or shared service arrangement is contracting. The school district or shared service arrangement shall not count contract students' average daily attendance as eligible. The TEA shall determine the number of contract students reported in full-time equivalents and pay state funds to the district according to the formula prescribed in law.
- (f) Other program options which may be considered for the delivery of special education and related services to a student may include the following:
- (1) contracts with other school districts; and
  - (2) other program options as approved by the TEA.

## II. PRIVATE SCHOOLS: ENROLLED BY THE PARENTS

### §300.129 State responsibility regarding children in private schools.

The State must have in effect policies and procedures that ensure that LEAs, and, if applicable, the SEA, meet the private school requirements in §§300.130 through 300.148. (Authority: 20 U.S.C. 1412(a)(10))

### §300.130 Definition of parentally-placed private school children with disabilities.

Parentally-placed private school children with disabilities means children with disabilities enrolled by their parents in private including religious, schools or facilities that meet the definition of elementary schools in §300.13 or secondary schools in §300.36, other than children with disabilities covered under §§300.145 through 300.147. (Authority: 20 U.S.C. 1412(a)(10)(A))

**§300.13 Elementary school.** Elementary school means a nonprofit institutional day or residential school, including a public elementary charter school that provides elementary education, as determined under State law.

**§300.36 Secondary school.** Secondary school means a nonprofit institutional day or residential school, including a public secondary charter school that provides secondary education, as determined under State law, except that it does not include any education beyond grade 12.

*( IMPORTANT: See also TAC §89.1096. Services for Students Placed by their Parents – Section 4 IEP).*

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

- (a) **General.** The SISD 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 SISD, 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 SISD, 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 SISD has met its obligation under §300.133.  
*(Private school expenditures - below)*
- (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 SISD consistent with §300.301. *(Initial Evaluations-section 2 of this document)*
- (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. (Authority: 20 U.S.C. 1412(a)(10)(A)(ii))

### §300.132 Provision of services for parentally-placed private school children with disabilities--basic requirement.

- (a) **General.** To the extent consistent with the number and location of 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 SISD, provision is made for the participation of those children in the program assisted or carried out under Part B of the Act by providing them with special education and related services, including direct services determined in accordance with §300.137, unless the Secretary has arranged for services to those children under the by-pass provisions in §§300.190 through 300.198.
- (b) **Services plan parentally-placed private school children with disabilities.** In accordance with paragraph (a) of this section and §§300.137 through 300.139, a services plan must be developed and implemented for each private school child with a disability who has been designated by the SISD in



which the private school is located to receive special education and related services under this part.  
(*Service Plan - Section 4-IEP*)

(c) **Record keeping.** The SISD must maintain in its records, and provide to the SEA, the following information related to parentally-placed private school children covered under §§300.130 through 300.144:

- (1) The number of children evaluated;
- (2) The number of children determined to be children with disabilities; and
- (3) The number of children served. (Authority: 20 U.S.C. 1412(a)(10)(A)(i))

(*IMPORTANT: See TAC §89.1096. Services for Students Placed by their Parents – Section 4 IEP.*)

### **§300.133 Expenditures.**

(a) **Formula.** To meet the requirement of §300.132(a), the SISD must spend the following on providing special education and related services (including direct services) to parentally-placed private school children with disabilities:

- (1) For children aged 3 through 21, an amount that is the same proportion of the SISD's total subgrant under section 611(f) of the Act as the number of private school children with disabilities aged 3 through 21 who are enrolled by their parents in private, including religious, elementary and secondary schools located in the school district served by the SISD, is to the total number of children with disabilities in its jurisdiction aged 3 through 21.
- (2) (i) For children aged three through five, an amount that is the same proportion of the SISD's total subgrant under section 619(g) of the Act as the number of parentally-placed private school children with disabilities aged three through five who are enrolled by their parents in private, including religious, elementary schools located in the school district served by the SISD, is to the total number of children with disabilities in its jurisdiction aged three through five.  
(ii) As described in paragraph (a)(2)(i) of this section, children aged three through five are considered to be parentally-placed private school children with disabilities enrolled by their parents in private, including religious, elementary schools, if they are enrolled in a private school that meets the definition of elementary school in §300.13.
- (3) If an LEA has not expended for equitable services all of the funds described in paragraphs (a)(1) and (a)(2) of this section by the end of the fiscal year for which Congress appropriated the funds, the LEA must obligate the remaining funds for special education and related services (including direct services) to parentally-placed private school children with disabilities during a carry-over period of one additional year.

(b) **Calculating proportionate amount.** In calculating the proportionate amount of Federal funds to be provided for parentally-placed private school children with disabilities, the SISD, after timely and meaningful consultation with representatives of private schools under §300.134, must conduct a thorough and complete child find process to determine the number of parentally-placed children with disabilities attending private schools located in the SISD. (See Appendix B of the final regulations for an example of how proportionate share is calculated).

*The proportionate share of federal IDEA money available for the upcoming school year, will be discussed in light of the consultation process and information gathered. Determination will be made regarding which eligible private school children will participate in special education services, what services will be provided, and how, where and by whom the services will be provided. The eligible students and parents will be invited to attend a meeting to develop an Individual Service Plan (similar to an IEP).*

(c) **Annual count of the number of parentally-placed private school children with disabilities.**

- (1) The Sherman Independent School District must--
  - (i) After timely and meaningful consultation with representatives of parentally-placed private school children with disabilities (consistent with §300.134), determine the number of parentally-placed private school children with disabilities attending private schools located in the LEA; and
  - (ii) Ensure that the count is conducted on any date between October 1 and December 1, inclusive, of each year.
- (2) The child count must be used to determine the amount that the SISD must spend on providing special education and related services to parentally-placed private school children with disabilities in the next subsequent fiscal year.

- (d) **Supplement, not supplant.** State and local funds may supplement and in no case supplant the proportionate amount of Federal funds required to be expended for parentally-placed private school children with disabilities under this part. (Authority: 20 U.S.C. 1412(a)(10)(A))

### **§300.134 Consultation.**

To ensure timely and meaningful consultation, the SISD, or, if appropriate, an 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. *See Child Find activities in Section 1 of this document.*
- (b) **Proportionate share of funds.** The determination of the proportionate share of Federal funds available to serve parentally-placed private school children with disabilities under §300.133(b), including the determination of how the proportionate share of those funds was calculated. *See Section 8 Administration. Through Child Find efforts and consultation with private nonpublic schools, the SISD will make decisions regarding use of proportionate share of federal IDEA money. Decisions made by the district will include which eligible private school children will participate in special education services, what services will be provided, how, when, where and by whom the services will be provided.*
- (c) **Consultation process.** The consultation process among the SISD, private school officials, and representatives of parents of parentally-placed private school children with disabilities, including how the process will operate throughout the school year to ensure that parentally-placed children with disabilities identified through the child find process can meaningfully participate in special education and related services. *All private schools located in the SISD will be contacted via survey to provide input into the process and information will be shared on how to obtain referral information from the school district campus.*

*The SISD will locate all private schools within the district and ensure consultation on the following:*

- (1). *Proportionate Share of Funds.*
- (2). *How Special Education services may be provided.*
- (3). *Explanation of services.*
- (4). *How parentally-placed private school children suspected of having a disability can participate equitably; and*
- (5). *How parents, teachers, and private school officials will be informed of the process.*
- (6). *Any other topics appropriate for consultation including all Federal Regulations listed.*

*Consultation methods with administrative and parent representative of eligible private school children may include:*

- ◆ *individual meetings with private school officials and the representative of parents of eligible private school children.*
- ◆ *one or more group meetings with private school representatives and representatives of parents of eligible private school children.*
- ◆ *written correspondence to all private schools known to the SISD to be within district boundaries.*
- ◆ *written correspondence to parents known to the SISD who home school their children.*
- ◆ *written correspondence to parents of eligible private school students.*

*The SISD will carefully consider the information from private schools and parents of eligible private school students regarding use of available federal funds. After consultation, a complete child find process is conducted to determine the total number of eligible students with disabilities place by parents in private schools. Consultation will be timely taking place prior to the designation of eligible private school students to participate in the SISD's special education supports and services.*

- (d) **Provision of special education and related services.** How, where, and by whom special education and related services will be provided for parentally-placed private school children with disabilities, including a discussion of--
- (1) **The types of services, including direct services and alternate service delivery mechanisms; and**
  - (2) **How special education and related services will be apportioned if funds are insufficient to serve all parentally-placed private school children; and**
  - (3) **How and when those decisions will be made;**

*Decisions made after the survey results will be shared with private school administration and appropriate parents affected.*

- (e) **Written explanation by SISD regarding services.** How, if the SISD disagrees with the views of the private school officials on the provision of services or the types of services (whether provided directly or through a contract) the SISD will provide to the private school officials a written explanation of the reasons why the SISD chose not to provide services directly or through a contract.

**§300.135 Written affirmation.**

- (a) When timely and meaningful consultation, as required by §300.134, has occurred, the SISD must obtain a written affirmation signed by the representatives of participating private schools.
- (b) If the representatives do not provide the affirmation within a reasonable period of time, the SISD must forward the documentation of the consultation process to the TEA.

*The SISD will collect and keep on file any written affirmations. If unable to obtain a written affirmation, the SISD will submit documentation explaining the attempts to secure the written affirmation to TEA at: [sped@tea.state.tx.us](mailto:sped@tea.state.tx.us)*

**§300.136 Compliance.**

- (a) **General.** A private school official has the right to submit a complaint to the SEA that the SISD--
- (1) Did not engage in consultation that was meaningful and timely; or
  - (2) Did not give due consideration to the views of the private school official.
- (b) **Procedure.**
- (1) If the private school official wishes to submit a complaint, the official must provide to the SEA the basis of the noncompliance by the SISD with the applicable private school provisions in this part; and
  - (2) The SISD must forward the appropriate documentation to the SEA.
  - (3) (i) If the private school official is dissatisfied with the decision of the SEA, the official may submit a complaint to the Secretary by providing the information on noncompliance described in paragraph (b)(1) of this section; and
  - (ii) The SEA must forward the appropriate documentation to the Secretary.
- (Authority: 20 U.S.C. 1412(a)(10)(A)(v))

**§300.137 Equitable services determined.**

- (a) **No individual right to special education and related services.** No private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.
- (b) **Decisions.**
- (1) Decisions about the services that will be provided to parentally-placed private school children with disabilities under §§300.130 through 300.144 must be made in accordance with paragraph (c) of this section and §300.134(c).
  - (2) The SISD must make the final decisions with respect to the services to be provided to eligible parentally-placed private school children with disabilities.
- (c) **Services plan for each child served under §§300.130 through 300.144.** If a child with a disability is enrolled in a religious or other private school by the child's parents and will receive special education or related services from SISD, the SISD must--
- (1) Initiate and conduct meetings to develop, review, and revise a services plan for the child, in accordance with §300.138(b); and
  - (2) Ensure that a representative of the religious or other private school attends each meeting. If the representative cannot attend, the SISD shall use other methods to ensure participation by the religious or other private school, including individual or conference telephone calls.

*After consultation with local private schools within the SISD, eligible private school students may participate in the special education services during a specific school year. An individual services plan will be developed and implemented as soon as possible after the services plan meeting. The services plan will be available to any SISD staff and/or private school staff or other persons who implement any portion of it, and they will be advised of their specific responsibilities in implementing the services plan. The plan is reviewed not less than annually. An eligible private school student with a services plan in one school year has no right to a services plan in a*

*subsequent school year. The SISD is responsible to determine eligible private school students who will participate each year.*

*The final decision with respect to which eligible private school children will participate, the nature of the services, their frequency and location, and how they will be evaluated will be made by the SISD.*

*The services plan team includes the same participants as would be included in an ARD Committee for the child. The parents, a representative of the private school, minimum of one regular education teacher of the child if the child is or may be participating in a regular education environment, minimum of one special education teacher or special education provider of the child, a representative of the SISD who is qualified to provide or supervise the provision of special education, is knowledgeable about the general curriculum and the availability of resources in the SISD; a person who can interpret the instructional implications of evaluation results, the child, if appropriate; and at the discretion of the parent or the SISD, any other individuals who have knowledge or special expertise regarding the child, including related services personnel if appropriate.*

*The regular education teacher of the child may be an employee of the private school. The District will ensure that a representative of the private school will be invited to the services plan meeting. If the representative is unable to attend, the District will share the document with the school if parent permission is obtained.*

### **§300.138 Equitable services provided.**

*See also Section 4a. XI. PRIVATE NONPUBLIC SCHOOL PROVISIONS*

#### **(a) General.**

- (1) The services provided to parentally-placed private school children with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools, except that private elementary school and secondary school teachers who are providing equitable services to parentally-placed private school children with disabilities do not have to meet the qualification requirements of §300.156(c).**
- (2) Parentally-placed private school children with disabilities may receive a different amount of services than children with disabilities in public schools.**

#### **(b) Services provided in accordance with a services plan.**

- (1) Each parentally-placed private school child with a disability who has been designated to receive services under §300.132 must have a services plan that describes the specific special education and related services that the SISD will provide to the child in light of the services that the SISD has determined, through the process described in §§300.134 and 300.137, it will make available to parentally-placed private school children with disabilities.**
- (2) The services plan must, to the extent appropriate--**
  - (i) Meet the requirements of §300.320, or for a child ages three through five, meet the requirements of §300.323(b) with respect to the services provided; and**
  - (ii) Be developed, reviewed, and revised consistent with §§300.321 through 300.324.**

#### **(c) Provision of equitable services.**

- (1) The provision of services pursuant to this section and §§300.139 through 300.143 must be provided:**
  - (i) By employees of SISD; or**
  - (ii) Through contract by the SISD with an individual, association, agency, organization, or other entity.**
- (2) Special education and related services provided to parentally-placed private school children with disabilities, including materials and equipment, must be secular, neutral, and nonideological.**

### **§300.139 Location of services and transportation.**

**(a) Services on private school premises.** Services to parentally-placed private school children with disabilities may be provided on the premises of private, including religious, schools, to the extent consistent with law.

#### **(b) Transportation.**

- (1) General.**

- (i) If necessary for the child to benefit from or participate in the services provided under this part, a parentally-placed private school child with a disability must be provided transportation--
    - (A) From the child's school or the child's home to a site other than the private school; and
    - (B) From the service site to the private school, or to the child's home, depending on the timing of the services.
  - (ii) LEAs are not required to provide transportation from the child's home to the private school.
- (2) **Cost of transportation.** The cost of the transportation described in paragraph (b)(1)(i) of this section may be included in calculating whether the SISD has met the requirement of §300.133.

**§300.140 Due process complaints and State complaints.**

(a) **Due process not applicable, except for child find.**

- (1) Except as provided in paragraph (b) of this section, the procedures in §§300.504 through 300.519 do not apply to complaints that an LEA has failed to meet the requirements of §§300.132 through 300.139, including the provision of services indicated on the child's services plan.

(b) **Child find complaints—to be filed with the LEA in which the private school is located.**

- (1) The procedures in §§300.504 through 300.519 apply to complaints that an LEA has failed to meet the child find requirements in §§300.131 including the requirements in §§300.300 through 300.311.
- (2) Any due process complaint regarding the child find requirements (as described in paragraph (b)(1) of the section) must be filed with the LEA in which the private school is located and a copy must be forwarded to the SEA.

(c) **State complaints.**

- (1) Any complaints that an SEA or LEA has failed to meet the requirements of §§300.132 through 300.135 and §§300.137 through 300.134 must be filed under the procedures in §§300.151 through 300.153.
- (2) A complaint filed by a private school official under §300.136(a) must be filed with the SEA in accordance with the procedures in §300.136(b). (Authority: 20 U.S.C. 1412(a)(10)(A))

**§300.141 Requirement that funds not benefit a private school.**

- (a) The SISD may not use funds provided under section 611 or 619 of the Act to finance the existing level of instruction in a private school or to otherwise benefit the private school.
- (b) The SISD must use funds provided under Part B of the Act to meet the special education and related services needs of parentally-placed private school children with disabilities, but not for meeting--
  - (1) The needs of a private school; or
  - (2) The general needs of the students enrolled in the private school.

**§300.142 Use of personnel.**

- (a) **Use of public school personnel.** The SISD may use funds available under sections 611 and 619 of the Act to make public school personnel available in other than public facilities--
  - (1) To the extent necessary to provide services under §§300.130 through 300.144 for parentally-placed private school children with disabilities; and
  - (2) If those services are not normally provided by the private school.
- (b) **Use of private school personnel.** The SISD may use funds available under sections 611 and 619 of the Act to pay for the services of an employee of a private school to provide services under §§300.130 through 300.144 if--
  - (1) The employee performs the services outside of his or her regular hours of duty; and
  - (2) The employee performs the services under public supervision and control.

*The Special Education Director will ensure services provided to eligible private school students will be provided by personnel who meet appropriate standards.*

(Authority: 20 U.S.C. 1412(a)(10)(A))

**§300.143 Separate classes prohibited.**

The SISD may **not** use funds available under section 611 or 619 of the Act for classes that are organized separately on the basis of school enrollment or religion of the children if—

- (a) The classes are at the same site; and
- (b) The classes include students enrolled in public schools and students enrolled in private schools.

(Authority: 20 U.S.C. 1412(a)(10)(A))

**§300.144 Property, equipment, and supplies.**

- (a) The SISD must control and administer the funds used to provide special education and related services under §§300.137 through 300.139, and hold title to and administer materials, equipment, and property purchased with those funds for the uses and purposes provided in the Act.
- (b) The SISD may place equipment and supplies in a private school for the period of time needed for the Part B program.
- (c) The SISD must ensure that the equipment and supplies placed in a private school--
  - (1) Are used only for Part B purposes; and
  - (2) Can be removed from the private school without remodeling the private school facility.
- (d) The SISD must remove equipment and supplies from a private school if--
  - (1) The equipment and supplies are no longer needed for Part B purposes; or
  - (2) Removal is necessary to avoid unauthorized use of the equipment and supplies for other than Part B purposes.
- (e) No funds under Part B of the Act may be used for repairs, minor remodeling, or construction of private school facilities. (Authority: 20 U.S.C. 1412(a)(10)(A)(vii))

*The district has completed all Child Find activities to engage any private/nonpublic school within our boundaries. The district Special Education Director (a minimum of annually) has communicated, solicited input, planned and maintained documentation of those activities. The referral of a private school student may be made by the parent, private school personnel, physician, etc. Each campus District Child Find Representative will coordinate the referral. The district data collection and referral procedures will be followed.*

*Previous Special Education Student: If the private school student has already been evaluated and identified as a student with a disability, the district diagnostician or speech therapist will schedule the Individual Service Plan meeting. If a district outside of our boundaries completed the student's evaluation, the parent must provide a copy of that evaluation. A copy of any previous ARD/IEP paperwork will also be requested from the parent. The diagnostician or speech therapist will follow the same district procedures to schedule an ARD/IEP meeting within the same required timelines.*

*A resident of another district attending a private school in SISD will follow the Child Find Process in SISD. The private school will work collaboratively with SISD to collect the necessary student data. The campus designee will contact the special education department to assist with the referral process. A student who is a resident of SISD but is attending a private school in another district will follow the Child Find process (i.e. evaluation) in the district in which the private school is located.*

*When a student referred for testing from a private school is not a resident of the SISD, then the ARD Committee will determine eligibility. The District will not create a Service Plan or offer the student a free appropriate public education. The SISD must obtain written consent from the parent before sharing evaluation data or other personally identifiable information with the student's district of residence.*

*Creation of Individual Service Plan: The Individual Service Plan meeting will be scheduled to plan appropriate services. The district diagnostician will follow the TEA timeline of 30 calendar days from the completed evaluation date to the ARD/IEP meeting. All documentation for Notice will also be followed. The private school student's individual Service Plan meeting will be held and documented on district forms.*

- 1. Service Plan: the Service Plan meeting will follow the same required members as an ARD/IEP meeting including a representative of the private school. The Service Plan will have measurable goals; will be implemented by district staff or district hired consultant, will use any necessary district materials and progress monitoring and reporting will occur. The Service Plan will be annually reviewed and revised as needed. If the student is eligible to receive proportionate share services, the school district where the private school is located is responsible for the services.*
- 2. Dual Enrollment: if a preschool age student is enrolled in a facility that meets criteria as a private school, the parents of eligible 3-5 year olds will be provided an explanation of the dual enrollment process by the campus diagnostician/LSSP. For dual enrollment, the student must reside within our district boundaries as*

*well. The child may continue through the school year in which child turns 5 years after September 1, an eligible child in private school and may be enrolled in private school and still enroll part-time in SISD and participate in special education services as specified in the child's IEP. It is the parent's choice to have the child educated only in private school or through dual enrollment. A parent may enroll a child full time in the public school district and receive all the special education services determined by the ARD Committee in the child's IEPs. When the child is 5 years of age or older on September 1 of the current school year, dual enrollment is no longer permitted.*

- 3. If a parent chooses to dual enroll the student, the district procedures for Notice, Consent, Evaluation and ARD/IEP will be followed and documented on district forms. For a child dually enrolled, the student's ARD/IEP Committee will inform the parent at the end of the school year in which the child turns five OR when the child is eligible to attend the district kindergarten program, whichever comes first. The parent will need to make a decision to enroll the student or develop an individual Service Plan for the child to continue in the parentally placed private school. If a parent declines the dual enrollment, an individual service plan can be developed and procedures in #1 above will be followed.*

### **III. PRIVATE SCHOOLS: PLACED OR REFERRED BY THE SISD**

#### **§300.145 Applicability of §§300.145 through 300.147.**

Sections 300.146 through 300.147 apply only to children with disabilities who are or have been placed in or referred to a private school or facility by a public agency as a means of providing special education and related services. (Authority: 20 U.S.C. 1412(a)(10)(B))

#### **§300.146 Responsibility of State educational agency.**

Each SEA must ensure that a child with a disability who is placed in or referred to a private school or facility by a public agency--

(a) Is provided special education and related services--

(1) In conformance with an IEP that meets the requirements of §§300.320 through 300.325 (*IEP section 4 of this document*) ; and

(2) At no cost to the parents;

(b) Is provided an education that meets the standards that apply to education provided by the SEA and LEAs including the requirements of this part, except for §300.156(c) (*Personnel qualifications section 8 of this document*) ; and

(c) Has all of the rights of a child with a disability who is served by the SISD.

(Authority: 20 U.S.C. 1412(a)(10)(B))

#### **§300.147 Implementation by State educational agency.** In implementing §300.146, the SEA must--

(a) Monitor compliance through procedures such as written reports, on-site visits, and parent questionnaires;

(b) Disseminate copies of applicable standards to each private school and facility to which the SISD has referred or placed a child with a disability; and

(c) Provide an opportunity for those private schools and facilities to participate in the development and revision of State standards that apply to them.

(Authority: 20 U.S.C. 1412(a)(10)(B))

#### **TAC §89.1075. General Program Requirements and Local District Procedures.**

(g) School districts that contract for services from non-public day schools must do so in accordance with 34 Code of Federal Regulations, §300.147, and procedures developed by the TEA.



#### **IV. PRIVATE SCHOOLS: ENROLLED BY PARENT - WHEN FAPE IS AT ISSUE**

##### **§300.148 Placement of children by parents if FAPE is at issue.**

- (a) **General.** This part does not require the SISD to pay for the cost of education, including special education and related services, of a child with a disability at a private school or facility if the SISD made FAPE available to the child and the parents elected to place the child in a private school or facility. However, the SISD must include that child in the population whose needs are addressed consistent with §§300.131 through 300.144 (found in this section 5 of the document)
- (b) **Disagreements about FAPE.** Disagreements between the parents and a public agency regarding the availability of a program appropriate for the child, and the question of financial reimbursement, are subject to the due process procedures in §§300.504 through 300.520. (in section 7 of this document) .
- (c) **Reimbursement for private school placement.** If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a private preschool, elementary school, or secondary school without the consent of or referral by the public agency, a court or a hearing officer may require the agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made FAPE available to the child in a timely manner prior to that enrollment and that the private placement is appropriate. A parental placement may be found to be appropriate by a hearing officer or a court even if it does not meet the State standards that apply to education provided by the SEA and LEAs.
- (d) **Limitation on reimbursement.** The cost of reimbursement described in paragraph (c) of this section may be reduced or denied--
- (1) If--
    - (i) At the most recent IEP Team meeting that the parents attended prior to removal of the child from the SISD, the parents did not inform the IEP Team that they were rejecting the placement proposed by the SISD to provide FAPE to their child, including stating their concerns and their intent to enroll their child in a private school at public expense; or
    - (ii) At least ten (10) business days (including any holidays that occur on a business day) prior to the removal of the child from the public school, the parents did not give written notice to the SISD of the information described in paragraph (d)(1)(i) of this section;
  - (2) If, prior to the parents' removal of the child from the public school, the SISD informed the parents, through the notice requirements described in §300.503(a)(1), of its intent to evaluate the child (including a statement of the purpose of the evaluation that was appropriate and reasonable), but the parents did not make the child available for the evaluation; or
  - (3) Upon a judicial finding of unreasonableness with respect to actions taken by the parents.
- (e) **Exception.** Notwithstanding the notice requirement in paragraph (d)(1) of this section, the cost of reimbursement--
- (1) Must not be reduced or denied for failure to provide the notice if--
    - (i) The school prevented the parent from providing the notice;
    - (ii) The parents had not received notice, pursuant to §300.504, of the notice requirement in paragraph (d)(1) of this section; or
    - (iii) Compliance with paragraph (d)(1) of this section would likely result in physical harm to the child; and
  - (2) May, in the discretion of the court or a hearing officer, not be reduced or denied for failure to provide this notice if--
    - (i) The parents are not literate or cannot write in English; or
    - (ii) Compliance with paragraph (d)(1) of this section would likely result in serious emotional harm to the child. (Authority: 20 U.S.C. 1412(a)(10)(C))

## V. CONTRACTING FOR EDUCATIONAL PLACEMENT

### A. Residential Placements

TAC §89.1115. Memorandum of Understanding Concerning Interagency Coordination of Special Education Services to Students with Disabilities in Residential Facilities. ([Section 8. Administration](#))

#### **§300.104 Residential placement.**

**If placement in a public or private residential program is necessary to provide special education and related services to a child with a disability, the program, including non-medical care and room and board, must be at no cost to the parents of the child. (Authority: 20 U.S.C. 1412(a)(1), 1412(a)(10)(B))**

#### TEC §29.008. Contracts for Services; Residential Placement.

- (a) A school district, shared services arrangement unit, or regional education service center may contract with a public or private facility, institution, or agency inside or outside of this state for the provision of services to students with disabilities. Each contract for residential placement must be approved by the commissioner. The commissioner may approve a residential placement contract only after at least a programmatic evaluation of personnel qualifications, adequacy of physical plant and equipment, and curriculum content. The commissioner may approve either the whole or a part of a facility or program.
- (b) Except as provided by Subsection (c), costs of an approved contract for residential placement may be paid from a combination of federal, state, and local funds. The local share of the total contract cost for each student is that portion of the local tax effort that exceeds the district's local fund assignment under Section 42.252, divided by the average daily attendance in the district. If the contract involves a private facility, the state share of the total contract cost is that amount remaining after subtracting the local share. If the contract involves a public facility, the state share is that amount remaining after subtracting the local share from the portion of the contract that involves the costs of instructional and related services. For purposes of this subsection, "local tax effort" means the total amount of money generated by taxes imposed for debt service and maintenance and operation less any amounts paid into a tax increment fund under Chapter 311, Tax Code.
- (c) When a student, including one for whom the state is managing conservator, is placed primarily for care or treatment reasons in a private residential facility that operates its own private education program, none of the costs may be paid from public education funds. If a residential placement primarily for care or treatment reasons involves a private residential facility in which the education program is provided by the school district, the portion of the costs that includes appropriate education services, as determined by the school district's admission, review, and dismissal committee, shall be paid from state and federal education funds.
- (d) A district that contracts for the provision of education services rather than providing the services itself shall oversee the implementation of the student's individualized education program and shall annually reevaluate the appropriateness of the arrangement. An approved facility, institution, or agency with whom the SISD contracts shall periodically report to the district on the services the student has received or will receive in accordance with the contract as well as diagnostic or other evaluative information that the district requires in order to fulfill its obligations under this subchapter.

*For any student in a RF facility in SISD, the district will oversee the implementation of the student's IEP and annual reevaluate appropriateness. If contracting becomes necessary, reports will be obtained each 6 weeks on the services the student receives.*

<https://tea.texas.gov/student-assessment/monitoring-and-interventions/program-monitoring-and-interventions/special-education-in-residential-facilities>

#### TAC §89.61. Contracting for Residential Educational Placements for Students with Disabilities.

- (a) Residential placement. The SISD may contract for residential placement of a student when the student's admission, review, and dismissal (ARD) committee determines that a residential placement is necessary in order for the student to receive a free appropriate public education (FAPE).
- (1) The SISD may contract for a residential placement of a student only with either public or private residential facilities which maintain current and valid licensure by the Texas Department of Aging and Disability Services, Texas Department of Family and Protective Services, or Department of State Health

Services for the particular disabling condition and age of the student. The SISD may contract for an out-of-state residential placement in accordance with the provisions of subsection (c)(3) of this section.

- (2) Subject to subsections (b) and (c) of this section, the district may contract with a residential facility to provide some or all of the special education services listed in the contracted student's individualized education program (IEP). If the facility provides any educational services listed in the student's IEP, the facility's education program must be approved by the commissioner of education in accordance with subsection (c) of this section.
- (3) A school district which intends to contract for residential placement of a student with a residential facility under this section shall notify the Texas Education Agency (TEA) of its intent to contract for the residential placement through the residential application process described in subsection (b) of this section.
- (4) The SISD has the following responsibilities when making a residential placement.
  - (A) Before the SISD places a student with a disability in, or refers a student to, a residential facility, the district shall initiate and conduct a meeting of the student's ARD committee to develop an IEP for the student in accordance with 34 Code of Federal Regulations, §§300.342-300.347, state statutes, and commissioner of education rules.
  - (B) For each student, the services which the school district is unable to provide and which the facility will provide shall be listed in the student's IEP.
  - (C) For each student, the ARD committee shall establish, in writing, criteria and estimated timelines for the student's return to the school district.
  - (D) The appropriateness of the facility for each student residentially placed shall be documented in the IEP. General screening by a regional education service center is not sufficient to meet the requirements of this subsection.
  - (E) The school district shall make an initial and an annual on-site visit to verify that the residential facility can, and will, provide the services listed in the student's IEP which the facility has agreed to provide to the student.
  - (F) For each student placed in a residential facility (both initial and continuing placements), the school district shall verify, during the initial residential placement ARD committee meeting and each subsequent annual ARD committee meeting, that:
    - (i) the facility meets minimum standards for health and safety;
    - (ii) residential placement is needed and is documented in the IEP; and
    - (iii) the educational program provided at the residential facility is appropriate and the placement is the least restrictive environment for the student.
  - (G) The placement of more than one student, in the same residential facility, may be considered in the same on-site visit to a facility; however, the IEP of each student must be individually reviewed and a determination of appropriateness of placement and service must be made for each student.
  - (H) When a student who is residentially placed by a school district changes his residence to another Texas school district, and the student continues in the contracted placement, the school district which negotiated the contract shall be responsible for the residential contract for the remainder of the school year.
- (b) Application approval process. Requests for approval of state and federal funding for residentially placed students shall be negotiated on an individual student basis through a residential application submitted by the school district to the TEA.
  - (1) A residential application may be submitted for educational purposes only. The residential application shall not be approved if the application indicates that the:
    - (A) placement is due primarily to the student's medical problems;
    - (B) placement is due primarily to problems in the student's home;
    - (C) district does not have a plan, including timelines and criteria, for the student's return to the local school program;
    - (D) district did not attempt to implement lesser restrictive placements prior to residential placement (except in emergency situations as documented by the student's ARD committee);
    - (E) placement is not cost effective when compared with other alternative placements; and/or
    - (F) residential facility provides unfundable/unapprovable services.
  - (2) The residential placement, if approved by the TEA, shall be funded as follows:
    - (A) the education cost of residential contracts shall be funded with state funds on the same basis as nonpublic day school contract costs according to Texas Education Code, §42.151;

- (B) related services and residential costs for residential contract students shall be funded from a combination of fund sources. After expending any other available funds, the district must expend its local tax share per average daily attendance and 25% of its Individuals with Disabilities Education Act, Part B, (IDEA-B) formula tentative entitlement (or an equivalent amount of state and/or local funds) for related services and residential costs. If this is not sufficient to cover all costs of the residential placement, the district through the residential application process may receive additional IDEA-B discretionary funds to pay the balance of the residential contract placement(s) costs; and
- (C) funds generated by the formula for residential costs described in subsection (b)(2)(B) of this section shall not exceed the daily rate recommended by the Texas Department of Protective and Regulatory Services for the specific level of care in which the student is placed.
- (c) Approval of the education program for facilities which provide educational services. Residential facilities which provide educational services must have their educational programs approved for contracting purposes by the commissioner of education.
- (1) If the education program of a residential facility which is not approved by the commissioner of education is being considered for a residential placement by a local school district, the school district should notify the TEA in writing of its intent to place a student at the facility. The TEA shall begin approval procedures and conduct an on-site visit to the facility within 30 calendar days after the TEA has been notified by the local school district. Approval of the education program of a residential facility may be for one, two, or three years.
  - (2) The commissioner of education shall renew approvals and issue new approvals only for those facilities which have contract students already placed or which have a pending request for residential placement from a school district. This approval does not apply to residential facilities which only provide related services or residential facilities in which the local accredited school district where the facility is located provides the educational program.
  - (3) School districts which contract for out-of-state residential placement shall do so in accordance with the rules for in-state residential placement in this section, except that the facility must be approved by the appropriate agency in the state in which the facility is located, rather than by the commissioner of education in Texas.

#### TEC §29.012. Residential Facilities

- (a) Except as provided by Subsection (b)(2), not later than the third day after the date a person 22 years of age or younger is placed in a residential facility, the residential facility shall:
- (1) if the person is three years of age or older, notify the school district in which the facility is located, unless the facility is an open-enrollment charter school; or
  - (2) if the person is younger than three years of age, notify a local early intervention program in the area in which the facility is located.
- (b) An agency or political subdivision that funds, licenses, certifies, contracts with, or regulates a residential facility must:
- (1) require the facility to comply with Subsection (a) as a condition of the funding, licensing, certification, or contracting; or
  - (2) if the agency or political subdivision places a person in a residential facility, provide the notice under Subsection (a) for that person.
- (c) For purposes of enrollment in a school, a person who resides in a residential facility is considered a resident of the school district or geographical area served by the open-enrollment charter school in which the facility is located.
- (c-1) The commissioner by rule shall require each school district and open-enrollment charter school to include in the district's or school's Public Education Information Management System (PEIMS) report the number of children with disabilities residing in a residential facility who:
- (1) are required to be tracked by the Residential Facility Monitoring (RFM) System; and
  - (2) receive educational services from the district or school.

SECTION 2. This Act applies beginning with the 2017-2018 school year.

SECTION 3. This Act takes effect only if a specific appropriation for the implementation of the Act is provided in a general appropriations act of the 85th Legislature.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

- (d) The Texas Education Agency, the Texas Department of Mental Health and Mental Retardation, the Texas Department of Human Services, the Texas Department of Health, the Department of Protective and Regulatory Services, the Interagency Council on Early Childhood Intervention, the Texas Commission on Alcohol and Drug Abuse, the Texas Juvenile Probation Commission, and the Texas Youth Commission by a cooperative effort shall develop and by rule adopt a memorandum of understanding. The memorandum must:
- (1) establish the respective responsibilities of school districts and of residential facilities for the provision of a free, appropriate public education, as required by the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) and its subsequent amendments, including each requirement for children with disabilities who reside in those facilities;
  - (2) coordinate regulatory and planning functions of the parties to the memorandum;
  - (3) establish criteria for determining when a public school will provide educational services;
  - (4) provide for appropriate educational space when education services will be provided at the residential facility;
  - (5) establish measures designed to ensure the safety of students and teachers; and
  - (6) provide for binding arbitration consistent with Chapter 2009, Government Code, and Section 154.027, Civil Practice and Remedies Code.
- (e) This section does not apply to a residential treatment facility for juveniles established under Section 221.056, Human Resources Code.
- (f) Except as provided by Subsection (g), a residential facility shall provide to a school district or open-enrollment charter school that provides educational services to a student placed in the facility any information retained by the facility relating to:
- (1) the student's school records, including records regarding:
    - (A) special education eligibility or services;
    - (B) behavioral intervention plans;
    - (C) school-related disciplinary actions; and
    - (D) other documents related to the student's educational needs;
  - (2) any other behavioral history information regarding the student that is not confidential under another provision of law; and
  - (3) the student's record of convictions or the student's probation, community supervision, or parole status, as provided to the facility by a law enforcement agency, local juvenile probation department or juvenile parole office, community supervision and corrections department, or parole office, if the information is needed to provide educational services to the student.
- (g) Subsection (f) does not apply to a:
- (1) juvenile pre-adjudication secure detention facility; or
  - (2) juvenile post-adjudication secure correctional facility.

SECTION 2. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

*The Sherman Independent School District will follow the federal and state rules as well as the agency MOU agreements in serving students with disabilities in the residential facilities located within our district boundaries. The MOU agreements will be reviewed annually. The MOU requirements are located in [Section 8 of this Operating Guidelines](#) document. The following are additional local clarification and guidelines:*

1. ***Residential Facilities Specialist:*** *For purposes of compliance, quality and continuity, the SISD special education department will designate RF job responsibilities and oversight to one district employee. That identified person will be the district designee to maintain communication and compliance oversight with the RF within the district boundaries. Systematic documentation will be maintained annually by the SISD special education department designee. The RF designee will maintain the MOU, contact logs, RF meeting Agenda and minutes, correspondence copies, child find/ referral logs, sample referral packet, procedures and local guidelines, sample documentation forms and any other pertinent information.*
2. ***Child Find:*** *Annually, in January, the SISD will determine licensed / accredited agencies and obtain updated contact information. A survey (by phone, fax or email) will be conducted to determine the student population served. The district will conduct annual training for the RF staff regarding the guidelines for enrollment and referral. Agendas and attendance will be kept in documentation notebook by SISD.*

3. **Enrollment Guidelines:** *Any MOU requirements will be followed. A designee from each RF will provide information to the SISD designee upon student enrollment in the RF. A disposition upon enrollment is made of previous general education or previous special education. Also documentation will be kept if the student enrolling is a current SISD student or a non-SISD enrolling student. For school age students, the enrollment information is shared with the SISD designated RF specialist. Education services are not to be interrupted for any student enrolling in a RF. The RF is responsible for providing the following information: withdrawal from previous district, birth certificate or other proof of identity, student registration, medical history and records, parent approval of participation, student enrollment form, student directory information, parent survey of home language, transcript of working document, ARD/IEP records, if receiving services.*  
**Determine :**  
 a. *general education system delivery / non special education student*  
 b. *special education referral and evaluation needed (in lieu of previous campus interventions – the 504 committee may also be a consideration) – Determination of need for surrogate parent will have been made and guidelines followed for training or documentation of previous training. Follow all federal and state rules for provision of Procedural Safeguards, Notice and Consent for Evaluation and Notice of ARD Committee Meeting.*  
 c. *current special education student previously non - SISD resident (follow state rules for Temporary Transfer students) - Section 4 of this Operating Guidelines document*  
 d. *current special education student currently in SISD schools (change of placement ARD)*
4. **Referral and Evaluation: Determination of Disability and Eligibility for Special Education Services MOU** *requirements will be followed. Upon enrollment in the RF, the student will receive general education services pending completion of the referral and evaluation process. Upon determination of previous special education services, the special education state rules will be followed as previously stated.*
5. **Service Delivery:** *If the student has a disability and meets eligibility criteria, follow the federal and state rules and the ARD/IEP recommendations. The ARD Committee will determine any special education, related services or supplementary aides and services necessary for the student to make progress in the general curriculum in the Least Restrictive Environment. If the ARD Committee determines the special education student should remain in general education, the TEKS/ISD curriculum will be implemented. If the student needs any accommodations in general education classes, those accommodations will be determined by the ARD Committee and specified in the IEP. All ARD-IEP requirements for all students with a disability are found in Section 4 of this Operating Guidelines document.*

**§300.320 Definition of individualized education program.**

- (a) **General.** **As used in this part, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with §§300.320 through 300.324, and that must include--**
- (1) **A statement of the child's present levels of academic achievement and functional performance, including--**
    - (i) **How the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children); or**
    - (ii) **For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;**
  - (2) (i) **A statement of measurable annual goals, including academic and functional goals designed to--**
    - (A) **Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and**
    - (B) **Meet each of the child's other educational needs that result from the child's disability;**
  - (ii) **For children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives;**

*If the ARD Committee determines an alternate state assessment is appropriate, the ARD will develop short term objectives in addition to the measurable annual goals required in (2)(i) above.*

*Remaining portion of §300.320 is found in section 4 of the Operating Guidelines.*

*Also implement, if determined appropriate, any 504 adapted education, G/T, Bilingual / ESL, Dyslexia or other services.*

**Progress Monitoring:** *Again, the federal and state rules will be followed for all students including those in a residential facility residing in the SISD. Progress toward mastery of the goals and objectives will be documented and reported to the parent/guardian/adult student in the same timely manner as students who do not have a disability. Annual review of the IEP which includes placement in the least restrictive environment appropriate for the student will be conducted by the ARD Committee following all state and federal rules.*

6. **Program Evaluation:** *Continuous process of review using the following information:*
- a. *database of RF facilities within the attendance boundaries*
  - b. *documentation / data necessary for the enrollment process and communication between SISD specialist and the RF contact designee.*
  - c. *differentiate the population of referred students residing in the RF and provide appropriate services including referral, evaluation, and instruction for all eligible students*
  - d. *appropriate education services are provided based on individual decisions – use logs, referral forms, report cards, mastery of IEP goals and objectives, STAAR, benchmark testing, classroom observations, etc.*
  - e. *compliance monitored through PDAS, teacher checklist, folder audits, AEIS / AYP data*

## **B. Texas School for the Blind and Visually Impaired (TSBVI)**

### **TEC §30.021. Purpose of Texas School for the Blind and Visually Impaired. (TSBVI)**

- (a) The Texas School for the Blind and Visually Impaired is a state agency established to serve as a special school in the continuum of statewide alternative placements for students who are 21 years of age or younger on September 1 of any school year and who have a visual impairment and who may have one or more other disabilities. The school is intended to serve students who require specialized or intensive educational or related services related to the visual impairment. The school is not intended to serve:
- (1) students whose needs are appropriately addressed in a home or hospital setting or in a residential treatment facility; or
  - (2) students whose primary, ongoing needs are related to a severe or profound emotional, behavioral, or cognitive deficit.
- (b) The school district in which a student resides is responsible for assuring that a free appropriate public education is provided to each district student placed in the regular school year program of the school and that all legally required meetings for the purpose of developing and reviewing the student's individualized educational program are conducted. If the school disagrees with a district's individualized education program committee recommendation that a student be evaluated for placement, initially placed, or continued to be placed at the school, the district or the school may seek resolution according to a procedure established by the commissioner or through any due process hearing to which the district or school is entitled under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

## **C. Texas School for the Deaf (TSD)**

### **TEC §30.051. Purpose of Texas School For the Deaf (TSD)**

- (a) The Texas School for the Deaf is a state agency established to provide educational services to persons who are 21 years of age or younger on September 1 of any school year and who are deaf or hard of hearing. The school shall provide:
- (1) comprehensive educational services, on a day or residential basis;
  - (2) short-term services to allow a student to better achieve educational results from services available in the community; and
  - (3) services for any student who is deaf or hard of hearing and also has an additional disability and who requires a specialized support program but does not require a residential treatment facility.

### **TEC §30.057. Admission to Texas School for the Deaf (TSD)**

- (a) The Texas School for the Deaf shall provide services in accordance with Section 30.051 to any eligible student with a disability for whom the school is an appropriate placement if the student has been referred for admission:
- (1) by the school district in which the student resides under the student's individualized education program;

- (2) by the student's parent or legal guardian, or a person with legal authority to act in place of the parent or legal guardian, or the student, if the student is age 18 or older, at any time during the school year, if the referring person chooses the school as the appropriate placement for the student rather than the placement in the student's local or regional program recommended under the student's individualized education program; or
  - (3) by the student's parent or legal guardian through the student's admission, review, and dismissal or individualized family service plan committee, as an initial referral to special education for students who are three years of age or younger.
- (b) The commissioner, with the advice of the school's governing board, shall adopt rules to implement this section. The rules adopted by the commissioner may address the respective responsibilities of a student's parent or legal guardian or a person with legal authority to act in place of the parent or legal guardian, or the student, if age 18 or older, the school district in which the student resides, and the school.

#### **D. Regional Day School Program for the Deaf (RDSPD)**

##### **TEC §30.083. Statewide Plan.**

- (a) The director of services shall develop and administer a comprehensive statewide plan for educational services for students who are deaf or hard of hearing, including continuing diagnosis and evaluation, counseling, and teaching. The plan shall be designed to accomplish the following objectives:
- (1) providing assistance and counseling to parents of students who are deaf or hard of hearing in regional day school programs for the deaf and admitting to the programs students who have a hearing loss that interferes with the processing of linguistic information;
  - (2) enabling students who are deaf or hard of hearing to reside with their parents or guardians and be provided an appropriate education in their home school districts or in regional day school programs for the deaf;
  - (3) enabling students who are deaf or hard of hearing who are unable to attend schools at their place of residence and whose parents or guardians live too far from facilities of regional day school programs for the deaf for daily commuting to be accommodated in foster homes or other residential school facilities provided for by the agency so that those children may attend a regional day school program for the deaf;
  - (4) enrolling in the Texas School for the Deaf those students who are deaf or hard of hearing whose needs can best be met in that school and designating the Texas School for the Deaf as the statewide educational resource for students who are deaf or hard of hearing;
  - (5) encouraging students in regional day school programs for the deaf to attend general education classes on a part-time, full-time, or trial basis; and
  - (6) recognizing the need for development of language and communications abilities in students who are deaf or hard of hearing, but also calling for the use of methods of communication that will meet the needs of each individual student, with each student assessed thoroughly so as to ascertain the student's potential for communications through a variety of means, including through oral or aural means, fingerspelling, or sign language.
- (b) The director of services may establish separate programs to accommodate diverse communication methodologies. Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

TEC §30.081 - TEC §30.086. [See Section 8 for Funding](#)



## VI. INSTRUCTIONAL PROGRAMS / SERVICE DELIVERY

### §300.110 Program options.

The State must ensure that each public agency takes steps to ensure that its children with disabilities have available to them the variety of educational programs and services available to nondisabled children in the area served by the agency, including art, music, industrial arts, consumer and homemaking education, and vocational education.

(Authority: 20 U.S.C. 1412(a)(2), 1413(a)(1))

### A. Adapted Physical Education

#### §300.108 Physical education.

The TEA 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 SISD 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))

*Physical Education services, specially designed where necessary, will be provided as an integral part of the educational program of each student with disabilities. The ARD/IEP committee should consider three options when making decisions about the physical education needs of students with disabilities. These decisions must be based on an adapted physical education evaluation.*

1. The APE evaluation will provide the ARD/IEP committee with the following information:

- a. identification of student's problems,
- b. identification of areas of competencies,
- c. documentation of the student's need for adapted physical education.

2. Regular Physical Education with No Modifications or Accommodations

*NOTE: An adapted physical education evaluation is not necessary when the student with disabilities can participate in regular physical education with no modifications or accommodations.*

3. Regular Education with Accommodations

*Regular PE should be considered when accommodations would make it possible for the student with disabilities to be successful in a regular physical education program. The specific accommodations must be described in the student's IEP. It would be the responsibility of the special education teacher to assist the regular physical education teacher with accommodations for the student and to monitor the progress of the student.*

4. Adapted Physical Education

*a. An adapted physical education program with IEP objectives should be provided when the adapted physical education evaluation determines that the student cannot be successful in a regular physical education class with modifications. When the ARD/IEP committee has made the recommendation and the arrangements are specified in the student's IEP, physical education for the students with disabilities may be provided by the following personnel:*

1. special education instructional or related service personnel who have the necessary skills and knowledge;
2. physical education teachers;

3. *occupational therapist;*
  4. *physical therapist;*
  5. *occupational therapy assistant or physical therapy assistant working under supervision in accordance with the standards of their profession.*
- b. *When these services are provided by special education personnel, the SISD must document that they have the necessary skills and knowledge. Documentation may include, but not be limited to, in-service records, evidence of attendance at seminars or workshops, and/or transcripts of college courses.*
  - c. *If specially designed physical education is prescribed in a student's IEP, the SISD will provide the services directly or make arrangements for those services to be provided through other public or private programs.*
  - d. *If SISD enrolls a student with a disability into a facility, SISD ensures that the student receives appropriate physical education services.*

#### TEC §33.093. RECOGNITION OF PARTICIPATION IN SPECIAL OLYMPICS.

If a school district allows high school students to earn a letter for academic, athletic, or extracurricular achievements, the district must allow high school students in the district to earn a letter on the basis of a student's participation in a Special Olympics event.

SECTION 2. This Act applies beginning with the 2017-2018 school year.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

### **B. Behavior Improvement Classes**

*The SISD will provide specialized instructional strategies and incorporate a behavioral level system for those students whose ARD/IEP Committee determine a more restrictive placement is appropriate due to behavioral needs.*

### **C. Content Mastery Program Overview**

*The Content Mastery Center is designed to assist students with achieving appropriate grade level TEKS. The Content Mastery teacher collaborates with the general education teacher to provide the necessary supports for the student to be successful.*

*The Content Mastery Teacher will be proactive - obtaining lesson plans, materials, etc., ahead of time to plan a quality support system for both the general education teacher and the student. Increased stimulus variation is offered to students by utilizing as many different strategies as necessary to teach an objective.*

1. *There are two underlying principles of the program that are essential to its success:*
  - a. *Students with disabilities can learn and succeed in the mainstream with appropriate accommodations and support.*
  - b. *To be successful in the mainstream, the special student may need support in core and elective classes as appropriate.*
2. *Services may include (if adopted by the student's ARD committee), but are not restricted to the following:*
  - a. *taped textbooks;*
  - b. *hi-lighted materials (textbooks, worksheets, etc.);*
  - c. *reading test to students and/or assisting teachers with test adaptation;*
  - d. *help with a packet, worksheet, written assignment, or anything involving textbooks;*
  - e. *study group for exams;*
  - f. *discussing individual student's strengths and weaknesses with regular teachers;*
  - g. *monitoring student progress and placement;*
  - h. *aiding in student organizational skills;*
  - i. *vocabulary files for general education courses;*
  - j. *supplementary materials for courses;*
  - k. *alternative work environment*
  - l. *modified materials; and*
  - m. *collaborative planning among general and special education teachers.*

3. *Examples of when the student may use the Content Mastery Center:*

- a. *when working independently on a packet, written assignment, worksheet, or questions from the textbook;*
- b. *when the student is assigned to read a chapter in class; or*
- c. *when students are studying for a test or a test is being given.*

*Note: It would **not** be appropriate for a student to leave the general education classroom during the teacher's direct instruction, class discussion, group work, lab, or a film.*

4. *For SISD campuses that utilize a Content Mastery Center, the time spent in the Content Mastery Center may vary, depending on what the student needs to accomplish. Recommended guidelines for general education teachers utilizing the Content Mastery Center for students placed into this setting:*

a. *Consistently Low Grades*

*If a student's grades are consistently low in a subject (70's or below), then the student needs to use the Content Mastery Center on a regular basis.*

b. *Poor Student Performance*

*The student's performance during the lesson cycle provides the most accurate assessment of appropriate use of Content Mastery. There are two critical checkpoints in the lesson cycle:*

*(a) check for understanding, and*

*(b) guided practice. If a student is experiencing academic difficulty at either of these two checks, then he/she should go to Content Mastery for a reteach.*

c. *Gaps in Student Skills*

*If the general education teacher and the content mastery teacher determine that a student is missing vital prerequisite skills for a lesson, then the student may need a "preteach" at some point in the lesson cycle for tomorrow's lesson. The most appropriate step for this to occur is during independent practice, which would need to be reduced in order for there to be adequate time for a "preteach".*

d. *Behavior*. *It is inappropriate to send a student to content mastery because of behavior problems unless so determined by ARD.*

#### **D. Co-teaching**

*Co-teaching occurs in the general education classroom and is one way of assisting with inclusive education and providing specially designed instruction in the general education classroom. The special education teacher works along side the regular education teacher and lessons are planned together. Both teach the subject together to a class of special and regular education students. Co-teaching supports academic diversity in the regular classroom and provides all students with access to the state curriculum. Preplanning occurs with both teachers contributing equally. Teachers who are co-teaching will identify the following:*

1. *Styles (Instructional and Discipline): hands-on doing experiments and using manipulatives, use the textbooks first and then supplement with experiments and manipulatives? How do you manage behaviors? What are discipline styles? What are your strengths and weaknesses?*
2. *Plan of action to address:*
  - *Scheduling*
  - *Expected classroom behaviors*
  - *Classroom procedures, such as class work and homework policies, turning in work*
  - *Consequences of not following rules and procedures*
  - *Grading*
  - *Communication between home and school*
3. *Students in special education belong to both educators, so the general educator must be informed about the IEP for each child.*
4. *Roles in talking with parents.*

#### **E. Early Childhood Intervention (ECI) – birth to 3 years** *(see also Referral Section)*

*For the Memorandum of Understanding (MOU) with the TEA, refer to the MOU in its entirety at:*

*[http://tea.texas.gov/Academics/Special\\_Student\\_Populations/Special\\_Education/Programs\\_and\\_Services/Early\\_Transition\\_Memorandum\\_of\\_Understanding/](http://tea.texas.gov/Academics/Special_Student_Populations/Special_Education/Programs_and_Services/Early_Transition_Memorandum_of_Understanding/)*

#### **F. General Education Career and Technical Education (CTE)**

TEC §75.1023. Provisions for Individuals who are Members of Special Populations.

- (a) An individual who is a member of a special population as defined in 20 United States Code (USC) , §2302(29), shall be provided career and technical education in accordance with all applicable federal law and regulations, state statutes, and rules of the State Board of Education (SBOE) and commissioner of education.
- (b) A student with a disability shall be provided career and technical education in accordance with the provisions of the Individuals with Disabilities Education Improvement Act (IDEA) of 2004, 20 USC §§1400-14910 , and implementing regulations, state statutes, and rules of the SBOE and commissioner of education relating to services to students with disabilities.
- (c) A student with a disability shall be instructed in accordance with the student's individualized education program (IEP) in the least restrictive environment, as determined by the admission, review, and dismissal (ARD) committee. If a student is unable to receive a free appropriate public education (educational benefit) in a regular career and technical education program, using supplementary aids and services, the student may be served in separate programs designed to address the student's occupational/training needs, such as career and technical education for students with disabilities (CTED) programs.
- (d) A student with a disability identified in accordance with provisions of Public Law 105-302 and the IDEA, is an eligible participant in career and technical education when the requirements of this subsection are met.
  - (1) The ARD committee shall include a representative from career and technical education, preferably the teacher, when considering initial or continued placement of a student in a career and technical education program. An ARD committee member, including a member described in this subsection, is not required to attend an ARD committee meeting if the conditions of 34 Code of Federal Regulations (CFR), §300.321(e)(1), regarding attendance, or 34 CFR, §300.321(e)(2), regarding excusal, have been met.
  - (2) Planning for students with disabilities shall be coordinated among career and technical education, special education, and state rehabilitation agencies and should include a coherent sequence of courses.
  - (3) The SISD shall monitor to determine if the instruction being provided students with disabilities in career and technical education classes is consistent with the IEP developed for a student .
  - (4) A school district shall provide supplementary services that each student with a disability needs to successfully complete a career and technical education program, such as curriculum modification, equipment modification, classroom modification, supportive personnel, and instructional aids and devices.
  - (5) A school district shall help fulfill the transitional service requirements of the IDEA of 2004, 20 USC §§1400-14910 , and implementing regulations, state statutes, and rules of the commissioner of education for each student with a disability who is completing a coherent sequence of career and technical education courses.
  - (6) When determining placement in a career and technical education classroom, the ARD committee shall consider a student's graduation plan, the content of the IEP, including the consideration of transition services, and classroom supports. Enrollment numbers should not create a harmful effect on student learning for a student with or without disabilities in accordance with the provisions in the IDEA of 2004, 20 USC §§1400-14910, and its implementing regulations.

*The ARD/IEP Committee will determine the individualized program needed for each student with disabilities placed in CTE classes. The case manager will collaborate with the CTE teacher regarding the IEP and instructional needs.*

**G. Homebound Program**

Please see the Student Attendance Accounting Manual for detailed information on the following:

- Homebound Services for Students with Chronic Illness/Acute Health Problems
- Chronic Illness/Acute Health Problems Policy Requirements
- Pregnancy Related Services (PRS)
- Infants and Toddlers with AI/VI
- ECSE
- Homebound Funding and Documentation Requirement
- Transition from Homebound to the Classroom
- Transitioning Students with Chronic Illness between Homebound and the Classroom
- Career and Technology Education Funding Requirements
- others

*The SISD provides homebound instruction for special education students who are unable to attend school because of medical reasons.*

1. *It is the responsibility of the ARD/IEP committee to determine:*
  - a. *the curriculum that is appropriate for homebound instruction;*
  - b. *modifications of the student's schedule.*

*The general classroom teacher on the student's home campus determines academic course work for the special education homebound student in his/her class and will coordinate with the assigned homebound teacher.*

2. *It is important for the ARD/IEP committee to explain to the parents that an adult must be present in the home when a homebound teacher is providing instruction.*
3. *Dismissal procedures for homebound students are outlined in the ARD/IEP committee meeting that initiates homebound instruction. A homebound student will return to school:*
  - a. *when the medical release from the physician indicates*
  - b. *when the medical report from the physician expires.*

### **Homebound Program for Pregnant Students**

*Special Education eligibility and services do not change as a result of a student's becoming pregnant.*

*During the periods the student is confined to the home or hospital bedside, either prenatal or postnatal, special education and related services should be provided in the homebound instructional setting.*

*To ensure that there is no break in special education services, the ARD committee should convene as soon as possible on verification of a student's pregnancy to determine how special education and related services will be provided in the homebound instructional arrangement during the period of confinement to the home or hospital bedside. The committee should –*

- *consider any prenatal medical conditions (such as, but not limited to, gestational diabetes, high blood pressure, preterm labor, etc.)*
- *consider postpartum periods of pregnancy; and*
- *document in the IEP the change of placement and in the type/amount of services that should begin on receipt of the physician's note.*

### **H. Learning in Functional Environments (L.I.F.E.) or Work Based Learning (WBL) Functional Academics and Life Skills (FALS)**

*The Learning in Functional Environments (L.I.F.E.) program is the name given to describe a service delivery option, which may be considered by the ARD/IEP committee. This instructional option provides state curriculum as well as a focus on training students in functional daily living skills with a strong vocational emphasis at the secondary level to prepare students for work in a supported employment environment when they leave school. The core academic curriculum areas of reading, writing, and mathematics are included as well as science and social studies with an emphasis on functional skills to become as independent as possible. The term Community-based Instruction (CBI) is a term used to describe teaching and learning the functional skills in the actual real environment of the community versus inside the classroom. Community-based Instruction is not a field trip; rather it is an instructional trip specifically to teach the goals and objectives of the IEP on a consistent basis in the real environments. A more current term to describe learning in real work environments is WBL or Work Based Learning.*

### **I. Early Childhood Special Education (ECSE)**

*The Early Childhood Special Education services for children with disabilities ages three through five is offered on select elementary school campuses. Parents are encouraged to be active participants in all phases of the educational process. Instruction is based on an individual education plan that is determined after evaluation has been completed. There may be several instructional personnel working together for the benefit of the student. These staff members may include, but are not limited to, an educational diagnostician, speech pathologist, nurse, special education teacher, special education instructional aide, occupational and/or physical therapist. ECSE placement is based on evaluation, eligibility and the student's IEP.*

### **J. Speech Therapy**

*The speech/language pathologist utilizes a service delivery system that has a range of services from least to most restrictive. An important component of this model is the option of providing service in general classroom through collaboration with the general education teacher. (Speech/language pathologist should be strongly encouraged to continue to implement this when appropriate for students.)*

*The amount of therapy time set out in the IEP establishes that these services will be provided. Therefore, it is essential that therapy **not** be canceled. Careful planning is required to allow for ARD/IEP meetings and testing time. Missed therapy sessions must be made up if the student is involved in a school related activity or if the therapist is out ill or attending professional development.*

- 1. Relative to ARD/IEP committee meetings, the speech pathologist:
 
  - a. should send home a DRAFT IEP at least one week prior to the ARD. A cover letter with name, conference time and phone number should accompany the IEP.*
  - b. conducts ARDs for students with a “speech impairment only”;*
  - c. copy and distribute the accommodation checklist to all the student’s teachers that are SI only.*
  - d. should attend ARDs for students that have the SI label in addition to another disability.**
- 2. Other responsibilities:
 
  - a. Full-time pathologists traditionally schedule a set time per week to use for testing, ARD/IEP committee meetings and paperwork.*
  - b. Weekly Therapy logs and attendance logs shall be maintained by the speech/language therapist.*
  - c. Our goal is for full-time therapists serve approximately 60 to 65 students per week. There may be circumstances in which this caseload is not possible.*
  - d. Lesson plans should be used as a guide for the implementation of the IEP.**

## **K. Vision Services**

- 1. All arrangements for service for students with visual impairments are designed to help the student to be successful in his/her primary academic setting.*
- 2. The visual impairment (VI) may be primary, secondary, or tertiary disability, and services from VI personnel will be implemented as determined by the ARD/IEP Committee. For every student receiving any type of vision service because of a certified visual impairment, the service assignments on the ARD/IEP form should include visual impairment. This may be in addition to other services or may be the only services the student receives.*
- 3. Progress of the students will be reviewed by vision staff and any other instructors. For students with a visual impairment, the ARD/IEP Committees must include the VI teacher.*
- 4. Staff assigned to work with students with visual impairments will have access to training and resources available through various agencies, including, but not limited to our local Regional Education Service Center (plus ESC 17), Texas School for the Blind and Visually Impaired (TSBVI), and Division for Blind Services (DBS) under Texas Department of Assistive and Rehabilitative Services (DARS).*

## **L. Vocational Adjustment Class/Program**

*(See also E. Gen. Ed. CTE) Local as determined by ARD committee. The Vocational Adjustment Class (VAC) is a special education vocational program that is offered on the high school campus. This instructional arrangement is designed for students with disabilities who desire vocational training and are unable to make progress in general education CTE programs. The curriculum of the VAC program includes on-the-job training and frequent supervision at work sites in the community. Employment opportunities and training are based on vocational evaluation, student needs and abilities, teacher recommendations and parental preference. Admission to the Vocational Adjustment Program is made by the Admission, Review and Dismissal (ARD/IEP) committee.*

*Community-Based Vocational Education (CBVE) delivers vocational education to students in typical community work settings rather than conventional school environments. Students engage in vocational exploration, assessment, and training experiences to assist in identifying career interests, assessing skills and training needs and developing the skills and attitudes necessary for paid, long-term employment. Students in CBVE will work toward independent employment, as appropriate.*

**§300.177 States' sovereign immunity and positive efforts to employ and advance qualified individuals with disabilities.**

**(a) States' sovereign immunity.**

- (1) A State that accepts funds under this part waives its immunity under the 11th amendment of the Constitution of the United States from suit in Federal court for a violation of this part.**
- (2) In a suit against a State for a violation of this part, remedies (including remedies both at law and in equity) are available for such a violation in the suit against any public entity other than a State.**
- (3) Paragraphs (a)(1) and (a)(2) of this section apply with respect to violations that occur in whole or part after the date of enactment of the Education of the Handicapped Act Amendments of 1990.**

**(b) Positive efforts to employ and advance qualified individuals with disabilities. Each recipient of assistance under Part B of the Act must make positive efforts to employ, and advance in employment, qualified individuals with disabilities in programs assisted under Part B of the Act.**

*The Special Education Department (including High School VAC's) in SISD will work in cooperation with the district Personnel Office and Administration to carefully review job openings within the district. Consideration will be given to any qualified individual with disabilities to advance in employment. Examples of positive efforts may include providing employment vacancy information to organizations for persons with disabilities and conducting job fairs for persons with disabilities.*