

Draft Rule Text for implementing Texas Education Code (TEC) §29.3615, as enacted by Senate Bill (SB) 2, 89th Regular Legislative Session:

The following is the draft language that TEA plans to propose to amend 19 Texas Administrative Code (TAC), §89.1096 to implement TEC §29.3615 of SB 2 and does not reflect the full text of 19 TAC §89.1096.

Chapter 89. ADAPTATIONS FOR SPECIAL POPULATIONS

Subchapter AA. COMMISSIONER'S RULES CONCERNING SPECIAL EDUCATION SERVICES

Division 2. CLARIFICATION OF PROVISIONS IN FEDERAL REGULATIONS

§89.1096. Provisions for Students Placed by their Parents in Private Schools or Facilities.

- (d) The individualized education program (IEP) for purposes of Texas Education Code (TEC), §29.3615 when the child is not enrolled in public school must, at minimum, include the following components:
- (1) A statement of the special education and related services and service delivery schedule that includes frequency, duration, and location, as well as the supplementary aids and services that would be provided to the child to enable the child to be involved in and progress in the child's enrolled grade level curriculum and to be educated and participate with children without disabilities to the maximum extent appropriate for the child's needs;
 - (2) An explanation of the extent, if any, to which the child would not participate with children without disabilities in a general education classroom;
 - (3) A statement of any individual appropriate accommodations or modifications that would be necessary for the child to make progress in the child's enrolled grade level curriculum; and
 - (4) The instructional arrangement or tiered funding level that is used to calculate the state special education funding allotment as determined by the decisions in (1)-(3) above.
- (e) At the admission, review, and dismissal (ARD) committee meeting at which eligibility has been determined for a child who is not enrolled in public school, the ARD committee must develop the IEP described by subsection (d) or (f) if the child's parent has requested one because the parent is interested in applying for the education savings account program under TEC Chapter 29, Subchapter J.
- (f) An IEP written in compliance with TEC §29.005 and 34 C.F.R., §300.320, may also be used for purposes of eligibility under TEC §29.3615.
- (g) For a child who is not enrolled in public school at the time of application to the education savings account program described by TEC, Chapter 29, Subchapter J but who previously attended public school within the last three school years and had an IEP in effect during the current school year or in at least one of the previous two school years, that child will be reported as eligible under TEC §29.3615 if an instructional arrangement or tiered funding level was reported through the Public Education Information Management System (PEIMS) by the public school where the child was previously enrolled in at least one of those school years. When there are different instructional arrangements or tiered funding levels reported for one or more of the three school years, the instructional arrangement or tiered funding level that was most recently reported will be reported as eligible under TEC, §29.3615.

- (h) A child who had an IEP in effect in one or both of the previous school years at the time of application to the education savings account program described by TEC Chapter 29, Subchapter J but who is currently still enrolled in public school without an IEP in effect will not be reported as eligible under TEC §29.3615.
- (i) The IEP developed solely for purposes of TEC, §29.3615 under subsection (d) is not subject to appeal.
- (j) If a parent does not agree with the ARD committee's determination of eligibility for special education and related services, the parent may use the dispute resolution processes available under the Individuals with Disabilities Act (IDEA), Part B, 34 CFR, §300.1. et. seq., as applicable.