

The Texas Education Agency (TEA) adopts amendments to §§89.1050, 89.1055, and 89.1096, concerning special education services. The amendments are adopted with changes to the proposed text as published in the April 10, 2026 issue of the *Texas Register* (51 TexReg 2328) and will be republished. The adopted amendments update statutory authority and clarify current program practices and requirements in accordance with House Bill (HB) 2, Senate Bill (SB) 568, and SB 2, 89th Texas Legislature, Regular Session, 2025.

REASONED JUSTIFICATION: Section 89.1050 defines the criteria for the admission, review, and dismissal (ARD) committee.

The adopted amendment to subsection (a) aligns reference to federal and state law by adding new statutory references and repealing statutory references in accordance with HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025.

The adopted amendment to subsection (c)(1)(I) adds criteria for a career and technical education (CTE) representative of the ARD committee to be knowledgeable about the availability of CTE programs offered in the district. Based on public comment, the rule text was revised at adoption to clarify that the CTE representative may be the school district representative or a teacher, and, if the representative is a teacher, the individual may also serve as the general education teacher representative.

The adopted amendment to subsection (c)(2) adds a reference 19 TAC §89.1131, Qualifications of Special Education, Related Service, and Paraprofessional Personnel, to describe the certification and licensure requirements for special education personnel.

Adopted new subsection (c)(3) establishes that a prekindergarten teacher who is dual certified in general education and special education and is responsible for implementing the child's individualized education program (IEP) could represent both the general and special education teacher requirements of the ARD committee.

The adopted amendment to subsection (c)(4) establishes ARD committee membership requirements for students with visual impairments, who are deaf or hard of hearing, or who have deafblindness. Based on public comment, subsection (c)(4)(A)-(C) were revised at adoption to clarify that the required disability-specific teacher may also serve as the special education teacher representative when that teacher is the only special education teacher responsible for implementing the student's IEP. The amendment also removes the word "either" in subsection (c)(4)(C) for clarity.

At adoption, the amendment to subsection (d) was revised from the proposed requirement of at least ten school days' notice for ARD committee meetings and instead retains the original requirement of at least five school days' notice for ARD committee meetings until July 1, 2027.

Based on public comment, new subsection (e) was added at adoption to implement the transition from five school days to a 10-calendar-day notice requirement beginning July 1, 2027, rather than immediately.

Based on public comment, the adopted amendment to subsection (f) has been changed to maintain the original rule text requiring the school district to schedule and convene an ARD committee meeting or provide a written refusal within five school days, and language has been added at adoption to implement the transition from five school days to a ten-calendar-day notice requirement beginning July 1, 2027, rather than immediately.

Based on public comment, to allow school systems time for implementation, new subsection (g) was added at adoption to implement the updated timeline requiring school systems to provide the parent notice of scheduling options for the ARD committee meeting within 10 school days of receipt of a written request beginning July 1, 2027.

The adopted amendment to subsection (h) clarifies that written notice must be provided in the parent's primary language or other mode of communication. At adoption, cross references were also updated to align with the renumbered subsections.

At adoption, subsection (i) was revised to retain the existing prior written notice requirement of five school days until July 1, 2027, rather than implementing the proposed ten-calendar-day requirement, to allow school systems time to transition and implement the updated timeline.

New subsection (j) was added at adoption to establish the requirements that will take effect beginning July 1, 2027, including the transition to a 10-calendar-day prior written notice requirement.

Adopted new subsections (k)-(m) clarify school district requirements for providing required information, parent notice, and ARD committee procedures when residential placements or changes in the location of special education and related services are considered, consistent with applicable state and federal law.

Section 89.1055 establishes criteria for the IEP.

The adopted amendment to subsection (a) clarifies that all elements of the rule must be followed.

Adopted new subsection (b) clarifies the timeline for review of the annual IEP.

Adopted new subsection (c) clarifies present levels of academic achievement and functional performance (PLAAFP) requirements. Based on public comment, subsection (c)(2)-(5) was revised at adoption to clarify that the PLAAFP must address the disability characteristics unique to the student and the student's related service needs, describe the student's strengths, and identify academic and functional critical needs using baseline data.

The adopted amendment to subsection (d) clarifies the responsibilities of the ARD committee in establishing measurable annual goals.

The adopted amendment to subsection (d)(1)(A) and (B) clarifies when an annual goal is required, including when course content is modified or when a special education provider is responsible for instruction or services.

The adopted amendment to subsection (d)(1) removes former subparagraph (ii), eliminating the requirement to develop an annual goal solely when a student is removed from the general education setting and course content is modified.

The adopted amendment to subsection (d)(2) clarifies the role and use of short-term objectives/benchmarks in relation to measurable annual goals.

The adopted amendment to subsection (d)(2)(A)-(C) clarifies requirements for short-term objectives/benchmarks, including minimum number and the need for distinct timeframes and components to support individualized progress monitoring. At adoption, language was added in subsection (d)(2)(B) and (C) to specify that those requirements begin July 1, 2027.

The adopted amendment to subsection (d)(2) removes former subparagraphs (i) and (ii), consolidating and clarifying when short-term objectives/benchmarks are required and that they may not be used as the criterion for mastery of the annual goal.

Adopted new subsection (e)(1)-(3) adds criteria for the service delivery schedule.

Adopted new subsection (f) adds documentation of minutes a student spends in and out of the general education setting.

Adopted new subsection (g) establishes progress monitoring for the IEP and contingencies for making up any specially designed instruction missed due to emergencies, staffing shortages, or other unforeseen circumstances.

The adopted amendment to subsection (i)(2) clarifies that alternative state assessment documentation must be completed and included in the child's IEP.

The adopted amendment to subsection (j) clarifies what services are needed for extended school year services.

The adopted amendment to subsection (k) updates a statutory cross reference to align with current state law.

The adopted amendment to subsection (n) clarifies requirements for IEP development for students with dyslexia, including alignment with §74.28, documentation of eligibility and need for evidence-based instruction, required ARD committee membership, and, at adoption, relocated paragraph (3) includes parent notification concerning the Talking Book Program in order to provide better organization of information.

Based on public comment, new subsection (o) was added at adoption to specify which proposed IEP documentation requirements for dyslexia, including instruction, program components, delivery, provider qualifications, fidelity, and progress reporting, must be implemented with an effective date of July 1, 2027, to allow school systems time to implement the changes.

Adopted new subsection (p) clarifies documentation requirements when dyslexia-related components are not applicable. At adoption, language has been added to clarify that current requirements remain in effect prior to July 1, 2027, and that subsection (o) documentation requirements apply beginning July 1, 2027.

Adopted new subsection (q) clarifies that a specific learning disability in basic reading or reading fluency may not be identified solely to circumvent dyslexia requirements and requires documentation when dyslexia is not identified.

Adopted new subsection (r) clarifies requirements for IEP development for students with dysgraphia, including alignment with §74.28 and required documentation of eligibility and instructional decisions. At adoption, language was added to specify that the requirements in subsection (r) become effective July 1, 2027.

Adopted new subsection (s) clarifies requirements for IEP documentation for School Health and Related Services (SHARS) eligible services. Based on public comment, language was added to specify that the requirements in subsection (s) become effective beginning July 1, 2027, to allow school systems time to implement the changes.

Adopted amendments to subsections (u) and (x) clarify the language in accordance with current practice.

The adopted amendment to subsection (z) clarifies the language in accordance with current practice by updating the phrase "native language" to "primary language."

The adopted amendment to subsection (aa) clarifies and updates required IEP documentation elements, including participant identification and alignment with the ARD committee representative designation in §89.1050(c)(1)(D).

The adopted amendment to subsection (bb) clarifies requirements for providing translated IEPs, including definitions of written and audio translations and expectations for complete translation. Based on public comment, the amendment was modified at adoption to specify that the 10-school-day timeline for translation requirements begins July 1, 2027.

Adopted new subsection (dd)(4) sets criteria for extending timelines for transfer students if they are absent.

Section 89.1096 establishes provisions of services for students placed by their parents in private schools or facilities.

An amendment to the title of the section is adopted for clarification to align with SB 2, 89th Texas Legislature, Regular Session, 2025.

The adopted amendment to subsection (a) aligns state rules with federal Individuals with Disabilities Education Act (IDEA) requirements by clarifying that parentally placed private school students do not have an individual entitlement to special education services.

The adopted amendment to subsection (a)(1) clarifies the use of the rule.

The adopted amendment to subsection (a)(1)(B) clarifies that the public school evaluating the child determines if a school is a private school.

The adopted amendment to subsection (b) clarifies when a district does not have to provide educational services to a parentally placed private school student.

Based on public comment, the adopted amendment to subsection (c) retains the existing dual enrollment provisions through the end of the 2026-2027 school year to allow school systems time to transition and implement the new requirements. Beginning with the 2027-2028 school year, subsection (c) will no longer be in effect, and dual enrollment will be removed.

The adopted amendment to re-lettered subsection (d) clarifies when a parent can request an individualized services plan.

Adopted new subsections (e)-(k) establish new regulations based on SB 2, 89th Texas Legislature, Regular Session, 2025. The adopted language clarifies the IEP criteria used to determine eligibility for participation in the Texas Education Savings Account under Texas Education Code (TEC), §29.3615, including the minimum components of an IEP developed solely for eligibility purposes, which also allowing the use of an IEP written in compliance with IDEA.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began April 10, 2026, and ended May 11, 2026, and included public hearings on April 23 and 24, 2026. Following is a summary of the public comments received and agency responses.

Comment: One individual requested clarification that credential requirements for related service providers include licensed professional counselors and social workers and are not limited to a single credential type.

Response: This comment is outside the scope of the proposed rulemaking.

Comment: One superintendent opposed the proposed amendments across 19 TAC Chapter 89, stating that the changes unnecessarily increase procedural requirements, create administrative burden, and emphasize compliance over meaningful support for students without providing additional resources or improving outcomes.

Response: The agency disagrees. The proposed amendments clarify requirements, align with statutory changes, and promote consistency, transparency, and effective implementation of special education services while maintaining the ARD committee's role in individualized decision-making.

§89.1050, The Admission, Review, and Dismissal Committee

Comment: Twenty-nine individuals and Hallsville Independent School District (ISD) recommended withdrawing the phrase "and state" to describe the laws applicable in §89.1050(a), stating that the change creates ambiguity regarding applicable legal authority.

Response: The agency disagrees, as reference to state law was already in the rule. It has simply been rephrased.

Comment: Thirty individuals, Hallsville ISD, The Texas Council of Administrators of Special Education (TCASE), and The Texas Classroom Teachers Association commented in support of increased flexibility in CTE representation but requested clarification to allow qualified staff, including existing ARD committee members, to serve in the role without adding personnel, while emphasizing that the CTE teacher should remain the preferred representative to support informed decision-making.

Response: The agency agrees that clarification was needed and has modified the rule at adoption to state that the CTE representative could be the school district representative or a teacher. If the representative is a teacher, the teacher could also serve as the general education teacher representative.

Comment: Thirty individuals and Hallsville ISD commented in support of the proposed provision allowing a dual-certified prekindergarten teacher to fulfill both the general education and special education teacher roles on the ARD committee, stating that the change would provide helpful flexibility, particularly for smaller and rural districts.

Response: The agency agrees.

Comment: Forty three individuals, Hallsville ISD, The Texas Deafblind Project, and the Alliance of and for Visually Impaired Texans commented in opposition to language that would allow a teacher with deafblind certification to substitute for both the teacher of students with visual impairments and the teacher of students who are deaf or hard of hearing, stating that both certified professionals should be required members of the ARD committee for students who are deafblind.

Response: The agency disagrees that both a teacher of students with visual impairments and a teacher of students who are deaf or hard of hearing must always serve on the ARD committee for a student with deafblindness because the rule permits a teacher with deafblind certification as an alternative. At adoption, the agency deleted the word "either" in subsection (c)(4)(C) and clarified the role of a teacher with deafblind certification in fulfilling ARD committee membership requirements.

Comment: Thirty-nine individuals, Hallsville ISD, and TCASE commented in opposition to extending the prior written notice timeline from five school days to ten calendar days when initiated by the district, citing increased administrative burden, conflicts with manifestation determination review and evaluation timelines, delays in services, and implementation challenges. TCASE additionally recommended that, if adopted, the rule should explicitly include an exception for disciplinary changes in placement and preserve a five-school-day timeline unless the parent agrees to a shorter timeframe.

Response: The agency disagrees that the prior written notice timeline should remain at five school days and maintains that a ten-calendar-day timeline better supports meaningful parent participation in educational decision-making. However, based on public comment, the adopted amendment retains the current five-school-day requirement through June 30, 2027, and delays implementation of the ten-calendar-day requirement until July 1, 2027, to allow school systems time to transition and implement the updated requirement.

Comment: One individual commented in support of the proposed 10-calendar-day ARD notice requirement, stating that it would better align with four-day school week calendars.

Response: The agency agrees. However, based on public comment, changes have been made at adoption to make this change effective July 1, 2027, rather than immediately, so that school systems can prepare for the change.

Comment: Twenty-nine individuals and Hallsville ISD commented that §89.1050(c)(4) should be clarified to specify whether certain certified teachers may simultaneously fulfill multiple ARD committee roles, including whether a visual impairment or deaf education teacher may also serve as the required special education teacher.

Response: The agency agrees that clarification may be needed. At adoption, subsection (c)(4)(A)-(D) have been modified to allow a teacher of students with visual impairments, a teacher of students who are deaf or hard of hearing, and a teacher with deafblind certification to serve as the special education teacher representative on the ARD committee if they are the only special education teacher involved in implementing the student's IEP.

Comment: Twenty-nine individuals, Hallsville ISD, and TCASE commented in support of clarifying the timeline for a district to respond to a parent request for an ARD committee meeting under §89.1050(e), re-lettered as §89.1050(f) at adoption, while recommending additional clarification regarding the notice of scheduling options and alignment of timelines.

Response: The agency agrees that clarification was needed. At adoption, the agency retained the existing requirements until July 1, 2027, and delayed implementation of the new 10-school-day notice of scheduling options requirement to allow school systems time to prepare for the change and provide a clearer transition to the new timeline.

Comment: Twenty-eight individuals and Hallsville ISD commented that the state supported living center notice requirement under §89.1050(h), re-lettered as §89.1050(k) at adoption, adds unnecessary paperwork that may not be relevant to the student's needs. TCASE requested clarification on when the requirement is triggered and raised

concerns about repeated provision of materials for existing placements, recommending options for parent request or provided electronic delivery.

Response: The agency disagrees that revisions are needed because §89.1050(k) implements TEC, §29.0056 and clearly identifies when the requirement applies. However, the agency will address requests for additional implementation guidance through technical assistance.

Comment: Thirty individuals, Hallsville ISD, and TCASE commented that the proposed requirements regarding a change in "location" under §89.1050(i) and(j), re-lettered as §89.1050(l) and (m) at adoption, are vague, overly broad, and potentially burdensome. TCASE also noted parents already have the right to request an ARD meeting and recommended clarifying that requests may be made when the factors identified in those subsections apply.

Response: The agency disagrees that edits are necessary because adopted §89.1050(l) and (m) identify the factors that trigger an ARD committee meeting and expressly permit a parent to request an ARD committee meeting if the parent believes those factors apply. However, the agency will provide additional implementation guidance through technical assistance.

Comment: Twenty-seven individuals and Hallsville ISD commented that the proposed change from "native language" to "primary language" requires additional clarification regarding how a student's primary language would be determined.

Response: The agency disagrees. "Primary language spoken at home" is a term commonly used by school districts and is reflected in the home language survey.

Comment: One individual commented in support of extending the timeline for transfer student annual ARD committee meetings when the student has been absent for three or more days, stating that the additional time would allow districts to make more individualized and data-driven decisions.

Response: The agency agrees.

Comment: Eight individuals commented that the proposed rules would impose fiscal and operational burdens on districts, including increased staffing demands, paperwork, software updates, additional meetings, and higher implementation costs, contrary to the statement that there would be no fiscal impact.

Response: The agency disagrees in part, as the changes are designed to align with current law and to respond to multiple requests and queries from districts over the years. Based on public comment, however, several provisions within the rules have been changed at adoption to apply beginning with July 1, 2027, rather than immediately, so that school systems can prepare for the changes.

Comment: Four individuals commented that the proposed ARD and IEP changes are overly prescriptive and risk shifting ARD committee work away from student-centered, individualized decision-making and toward a compliance-driven process.

Response: The agency disagrees and has determined the proposed requirements do not shift ARD committee work away from student-centered, individualized decision-making.

Comment: One individual commented that an appropriately certified orientation and mobility specialist should be required on the ARD committee for students with visual impairment or deaf blindness to provide expertise related to safety, mobility, and access to the educational environment.

Response: The agency disagrees that a change is necessary. A certified orientation and mobility specialist is required by TEC, §30.0021, to be part of a student's multidisciplinary team in an initial evaluation and as part of an ARD committee in a reevaluation for a child with a visual impairment.

§89.1055, Content of the Individualized Education Program

Comment: Two individuals commented in support of the proposed amendments, stating that increased clarity in PLAAFPs, service delivery, dyslexia identification, and timelines will improve consistency, transparency, and quality of IEPs but expressed concern about increased workload and implementation challenges due to staffing constraints and requested additional guidance and training.

Response: The agency agrees that the proposed amendments promote clarity, consistency, and improved IEP development and acknowledges the need for implementation support, noting that guidance and training will be provided to assist districts in effectively implementing the new requirements.

Comment: Fifteen individuals and Hallsville ISD opposed the proposed amendment to §89.1055(b), stating that the 365-day requirement eliminates existing flexibility, does not account for parent delays, emergencies, staffing shortages, or reconvening meetings, and would negatively impact the ability to recess ARD meetings.

Response: The agency disagrees. Federal law does not allow exceptions to an annual review of a student's IEP.

Comment: Fifteen individuals and Hallsville ISD opposed the proposed amendment to §89.1055(c) and (d), stating that the requirements are overly prescriptive, create unnecessary administrative burden, function as unfunded mandates, and undermine ARD committee discretion and individualized decision-making.

Response: The agency disagrees. The requirements for PLAAFP and annual goals promote consistency and quality by requiring baseline data to determine a student's present level of performance and measure progress over the IEP period while maintaining the ARD committee's role in individualized decision-making.

Comment: TCASE recommended revisions to §89.1055(c) to better align PLAAFP requirements with evaluation data, including student strengths, and clearly identify critical needs to inform annual goals.

Response: The agency agrees and has revised §89.1055(c)(2)-(5) at adoption. The adopted revisions require consideration of all disability characteristics unique to the student and related services needs, add a requirement to describe the student's strengths, and clarify that baseline data must identify the student's current skills or behaviors in academic and functional areas of critical need to support the development of measurable annual goals.

Comment: Fifteen individuals and Hallsville ISD opposed the proposed amendment to §89.1055(c)(2), stating that requiring ARD committees to address all disability conditions and related service needs is impractical and may result in overly lengthy IEPs that obscure priorities.

Response: The agency disagrees. The proposed amendments require consideration of all disability characteristics unique to the student and related services needs while allowing ARD committees to identify and prioritize areas of critical need for achievement within the IEP period.

Comment: One individual expressed concern that removing the requirement in §89.1055(d)(1) to establish an annual goal when a student is served outside the general education setting may reduce accountability and limit the ARD committee's ability to measure progress.

Response: The agency disagrees. The ARD committee still has the ability to measure progress and create goals as necessary to meet the students' needs. Removing the requirement does not remove the ability of the ARD committee to make the decisions regarding creating a goal or measuring progress.

Comment: TCASE raised concerns that the proposed amendment to §89.1055(f) and (g) are unclear, recommending simplified documentation of instructional minutes and clarification of requirements for procedures addressing missed services. Additionally, fifteen individuals and Hallsville ISD stated that the provisions are burdensome, unclear, and not practical to implement in situations such as staffing shortages or evolving funding requirements.

Response: The agency disagrees that changes to the rule are necessary. The requirements in §89.1055(f) and (g) provide flexibility for local implementation and expressly recognize emergencies, staffing issues, and other unforeseen circumstances. Additional clarification will be provided through guidance and training.

Comment: Fifteen individuals and Hallsville ISD opposed the proposed amendment to §89.1055(j), stating that replacing references to IEP goals with "services" reduces clarity regarding the purpose of extended school year (ESY) and may blur distinctions between ESY and regular school services.

Response: The agency disagrees. The use of "services" aligns with §89.1065 and maintains clarity regarding the purpose of ESY and its distinction from the regular school program.

Comment: Sixteen individuals, Hallsville ISD, and TCASE opposed the proposed dyslexia-related amendments, stating that they duplicate existing requirements in the Dyslexia Handbook, increase paperwork, and limit ARD committee flexibility. Three individuals also raised concerns that requirements such as naming programs in the IEP and distinguishing dyslexia from specific learning disability are unnecessary and administratively burdensome.

Response: The agency disagrees in part. The provisions provide clarity regarding specially designed instruction for students with dyslexia, including necessary documentation to support fidelity of implementation and appropriate eligibility determinations, and align with the Dyslexia Handbook while maintaining the ARD committee's role in individualized decision making. However, based on public comment, changes have been made at adoption to §89.1055(n) and (o) to clarify which dyslexia-related documentation requirements apply immediately and which take effect beginning July 1, 2027.

Comment: One parent supported the proposed dyslexia documentation requirements under §89.1055(n)(3) and (6), re-lettered to §89.1055(o)(1) and (4) at adoption, stating that identifying the instructional program and documenting fidelity statements would improve consistency, but requested additional clarification to the rule language. Another individual opposed the requirement, citing increased administrative burden, reduced flexibility, and potential disputes with parents.

Response: The agency agrees that the proposed changes would improve consistency. The agency disagrees that clarification is needed because §89.1055(o)(1) and (4) clearly identify the required IEP documentation regarding the dyslexia instruction program and fidelity of implementation. These requirements support consistent implementation while preserving the ARD committee's role in individualized decision-making. The agency, however, will provide additional implementation guidance.

Comment: Fifteen individuals, Hallsville ISD, and TCASE opposed the proposed amendment to §89.1055(r), re-lettered to §89.1055(s) at adoption, relating to the documentation of SHARS, stating that it duplicates existing Texas Health and Human Services Commission requirements and imposes additional unnecessary administrative burden.

Response: The agency disagrees in part, as clearly establishing the services eligible for Medicaid reimbursement is an important part of SHARS participation. However, based on public comment, changes have been made at adoption in re-lettered subsection (s) to begin this requirement on July 1, 2027.

Comment: Fifteen individuals and Hallsville ISD opposed the proposed amendment to §89.1055(t), re-lettered to §89.1055(u) at adoption, stating that requiring transition discussion beginning at age 13 is inconsistent with federal requirements and removes ARD committee discretion.

Response: The agency disagrees, clarifying that the rule preserves the existing requirement that transition services be included in the IEP in effect when the student turns 14.

Comment: Fifteen individuals and Hallsville ISD opposed the proposed amendment to §89.1055(w), re-lettered to §89.1055(x) at adoption, stating that the term "appropriate" is vague and may undermine decision-making rights of adult students and create inconsistent application.

Response: The agency disagrees. The use of the term "appropriate" is not intended to diminish the legal rights of adult students but reflects the requirement that ARD committees consider each situation and determine appropriate involvement consistent with existing rules.

Comment: Fifteen individuals and Hallsville ISD opposed the proposed amendment to §89.1055(z), re-lettered to §89.1055(aa) at adoption, stating that the requirement is duplicative and unnecessary because the district representative already indicates agreement or disagreement on the ARD signature page.

Response: The agency disagrees. The rule provides explicit requirements for documenting that the representative of the school district and the child's parent or adult student sign and indicate agreement or disagreement.

Comment: Sixteen individuals and Hallsville ISD opposed the proposed amendment to §89.1055(bb), re-lettered to §89.1055(cc) at adoption, stating that requiring a timeline to provide the finalized IEP is unreasonable given staffing shortages and caseload demands, increases administrative burden, and creates potential legal and logistical challenges.

Response: The agency disagrees in part. Parents have always been entitled to a written copy of the IEP at no cost. However, based on public comment, changes have been made at adoption in re-lettered subsection (cc) to state that the 10-school-day timeline applies as of July 1, 2027, so that school systems can prepare for the change.

Comment: Fifteen individuals and Hallsville ISD commented in support of the proposed amendment to §89.1055(cc)(4), re-lettered to §89.1055(dd)(4) at adoption, stating that it appropriately accounts for student absences, particularly for students new to a district.

Response: The agency agrees.

§89.1096, Provision of Services for Students Placed by their Parents in Private Schools or Facilities

Comment: TCASE commented that the proposal in §89.1096(a)(1) places responsibility on public schools to determine whether a private school qualifies as a nonprofit, creating administrative burden, and recommended that the state provide a centralized list of eligible private schools instead.

Response: The agency disagrees, as this is not within TEA's authority.

Comment: Fifteen individuals and Hallsville ISD opposed the proposed amendment to §89.1096(a)(1)(B), stating that private school information should not be weighted as heavily as results from a Full Individual Evaluation (FIE) when determining eligibility.

Response: The agency disagrees. The private school information in this section only refers to private schools that would be eligible to participate in the equitable services required by IDEA. The section does not have any impact on FIE.

Comment: One individual opposed the use of public-school resources to conduct special education evaluations for students participating in voucher programs, stating that private education providers should be responsible for these services, and expressed concern about impacts on public school funding and staffing.

Response: The agency disagrees. Existing federal and state child find requirements require public school districts to identify, locate, and evaluate students suspected of having disabilities, including those enrolled in private schools. These obligations are not altered by participation in voucher or Texas Education Freedom Account (TEFA) programs.

Comment: Disability Rights Texas, ARC of Texas, TCASE, and three individuals opposed the removal of §89.1096(c) regarding the dual enrollment option, stating it supports inclusion and access to early intervention. The commenters requested clarification on how current students would be impacted.

Response: The agency disagrees with retaining dual enrollment. The amendment aligns with IDEA requirements, and dual enrollment is not federally required. However, based on public comment, the adopted amendment retains the existing dual enrollment provisions through the end of the 2026-2027 school year to allow school systems time to transition and implement the new requirements. The agency clarifies that students currently receiving services through dual enrollment will not experience an immediate removal of services and decisions regarding services will

continue to follow existing law and local procedures through the end of the 2026-2027 school year. Beginning with the 2027-2028 school year, the dual enrollment provisions will not be in effect.

Comment: Disability Rights Texas, the ARC of Texas, TCASE, fifteen individuals, and Hallsville ISD opposed integrating TEFA-related IEP provisions into §89.1096, stating it creates confusion, duplicates processes, increases administrative burden, and should be addressed in a separate rule, emphasizing the need for informed parent consent, greater transparency, and clear distinction that TEFA IEPs are not offers of free appropriate public education (FAPE). Texas Parent to Parent agreed with Disability Rights Texas and the ARC of Texas.

Response: The agency disagrees with separating the provisions. Inclusion within §89.1096 provides a cohesive framework aligned with statutory requirements; however, the agency acknowledges stakeholder recommendations to clarify distinctions between TEFA IEPs and IDEA IEPs, including suggestions regarding parental notice, and may consider these recommendations in future guidance.

Comment: Fifteen individuals and Hallsville ISD opposed the proposed amendments, stating that the changes would create an alternative special education framework that may not meet FAPE requirements, could result in duplicative processes, and may impose unfunded mandates.

Response: The agency disagrees. The amendments appropriately implement statutory requirements related to private school placement and TEFA participation and do not alter IDEA obligations or require a separate rule structure.

Comment: Two individuals recommended recognizing the role of related service providers, including speech-language pathologists, in the Teacher Incentive Allotment (TIA) and emphasized the importance of including related service providers in ARD committee processes to reflect practical implementation.

Response: The comments related to the TIA are outside the scope of the proposed rulemaking.

Comment: Two individuals requested additional clarity regarding equitable service delivery, staffing feasibility, and continuity of care for students with communication needs, emphasizing the need for clear expectations to support consistent implementation across settings.

Response: The agency disagrees and has determined that clarification through technical assistance is more appropriate than clarification in the rule.

STATUTORY AUTHORITY. The amendments are adopted under Texas Education Code (TEC), §29.001, as amended by House Bill (HB) 2 and Senate Bill (SB) 568, 89th Texas Legislature, Regular Session, 2025, which establishes criteria for the implementation of special education law; TEC, §29.003, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which requires the Texas Education Agency (TEA) to develop eligibility criteria for students receiving special education services; TEC, §29.004, which establishes criteria for completing full individual and initial evaluations of a student for purposes of special education services; TEC, §29.005, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which establishes criteria for developing a student's individualized education program (IEP) prior to a student enrolling in a special education program; TEC, §29.010, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which requires TEA to develop and implement a monitoring system for school district compliance with federal and state laws regarding special education; TEC, §29.011, which requires the commissioner of education to adopt procedures for compliance with federal requirements relating to transition services for students enrolled in special education programs; TEC, §29.0111, which appropriates state transition planning to begin for a student no later than the student turning 14 years of age; TEC, §29.012, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which requires the commissioner to develop and implement procedures for compliance with federal requirements relating to transition services for students enrolled in a special education program; TEC, §29.026, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which establishes rulemaking authority for the commissioner as necessary to implement TEC, Chapter 29, Subchapter A; TEC, §29.3615, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which establishes IEP evaluations for a student who is not enrolled in a school district or open-enrollment charter school; TEC, §38.003, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which establishes criteria for the screening and treatment for dyslexia and related disorders; Texas Government Code, §392.002, which requires the use of person first respectful

language; 34 CFR, §300.101, which defines the requirement for all children residing in the state between the ages of 3-21 to have a free appropriate public education available; 34 CFR, §300.129, which establishes criteria for the state responsibility regarding children in private schools; 34 CFR, §300.131, which establishes child find for parentally placed private school children with disabilities; 34 CFR, §300.132, which establishes the basic requirement for the provision of services for parentally placed private school children with disabilities; 34 CFR, §300.133, which establishes criteria for expenditures; 34 CFR, §300.136, which establishes criteria for compliance; 34 CFR, §300.139, which establishes the criteria for location of services and transportation; 34 CFR, §300.142, which establishes criteria for use of personnel; 34 CFR, §300.143, which prohibits separate classes; 34 CFR, §300.307, which establishes the criteria for determining specific learning disabilities; 34 CFR, §300.310, which establishes criteria for observation to document the child's academic performance and behavior in the areas of difficulty; 34 CFR, §300.311, which establishes criteria for specific documentation for the eligibility determination 34 CFR, §300.320, which defines the IEP; 34 CFR, §300.322, which establishes criteria for parent participation; and 34 CFR, §300.323, which establishes criteria for when IEPs must be in effect.

CROSS REFERENCE TO STATUTE. The amendments implement Texas Education Code, §§29.001, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; 29.003, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; 29.004; 29.005, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; 29.010, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; 29.011; 29.0111; 29.012, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; 29.026, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; 29.3615, as added by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; and 38.003, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025; Texas Government Code, §392.002; and 34 Code of Federal Regulations, §§300.101, 300.129, 300.131, 300.132, 300.133, 300.136, 300.139, 300.142, 300.143, 300.307, 300.310, 300.311, 300.320, 300.322, and 300.323.

<rule>

§89.1050. The Admission, Review, and Dismissal Committee.

- (a) Each school district must establish an admission, review, and dismissal (ARD) committee for each eligible student with a disability and for each student for whom a full individual and initial evaluation is conducted pursuant to §89.1011 of this title (relating to Full Individual and Initial Evaluation). The ARD committee is the individualized education program (IEP) team defined in federal law and regulations, including, specifically, 34 Code of Federal Regulations (CFR), §300.321. The ARD committee is responsible for all of the functions for which the IEP team is responsible under federal and state law and regulations, including the following:
 - (1) 34 CFR, §§300.320-300.325, and Texas Education Code (TEC), §29.005 (individualized education programs);
 - (2) 34 CFR, §§300.145-300.147 (relating to placement of eligible students in private schools by a school district);
 - (3) 34 CFR, §§300.132, 300.138, and 300.139 (relating to the development and implementation of service plans for eligible students placed by parents in private school who have been designated to receive special education and related services);
 - (4) 34 CFR, §300.530 and §300.531, and TEC, §37.004 (disciplinary placement of students with disabilities);
 - (5) 34 CFR, §§300.302-300.306 (relating to evaluations, re-evaluations, and determination of eligibility);
 - (6) 34 CFR, §§300.114-300.117 (relating to least restrictive environment);
 - (7) TEC, §28.0211 (Satisfactory Performance on Assessment Instruments Required; Accelerated Instruction);

- (8) TEC, §28.0212 (Junior High or Middle School Personal Graduation Plan);
 - (9) TEC, §28.0213 (Intensive Program of Instruction);
 - (10) TEC, §28.025 (High School Diploma and Certificate; Academic Achievement Record);
 - (11) TEC, Chapter 29, Subchapter A;
 - (12) TEC, §29.048 (Admission, Review and Dismissal Committee Duties);
 - (13) TEC, Chapter 29, Subchapter I (Programs for Students Who Are Deaf or Hard of Hearing);
 - (14) TEC, Chapter 30, Subchapters A, B, and C;
 - (15) TEC, §33.081 (Extracurricular Activities);
 - (16) TEC, §37.307 (Placement and Review of Student with Disability);
 - (17) TEC, §38.034 (School Health and Related Services Program; Eligibility for Audiology Services);
 - (18) TEC, §39.023 (Adoption and Administration of Instruments);
 - (19) TEC, §39.025 (Secondary-Level Performance Required); and
 - (20) TEC, §48.102 (Special Education).
- (b) For a student from birth through two years of age with a visual impairment or who is deaf or hard of hearing, an individualized family services plan meeting must be held in place of an ARD committee meeting in accordance with 34 CFR, §§300.320-300.324, and the memorandum of understanding between the Texas Education Agency and the Texas Health and Human Services Commission. For students three years of age and older, school districts must develop an IEP.
- (c) ARD committee membership.
- (1) ARD committees must include the following:
 - (A) the parents, as defined by 34 CFR, §300.30, of the student;
 - (B) not less than one general education teacher of the student (if the student is, or may be, participating in the general education environment) who must, to the extent practicable, be a teacher who is responsible for implementing a portion of the student's IEP;
 - (C) not less than one special education teacher of the student, or where appropriate, not less than one special education provider of the student;
 - (D) a representative of the school district who:
 - (i) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with disabilities;
 - (ii) is knowledgeable about the general education curriculum; and
 - (iii) is knowledgeable about the availability of resources of the school district;
 - (E) an individual who can interpret the instructional implications of evaluation results, who may be a member of the committee described in subparagraphs (B)-(D) and (F) of this paragraph;
 - (F) at the discretion of the parent or the school district, other individuals who have knowledge or special expertise regarding the student, including related services personnel, as appropriate;
 - (G) whenever appropriate, the student with a disability;
 - (H) to the extent appropriate, with the consent of the parents or a student who has reached the age of majority, a representative of any participating agency that is likely to be responsible for providing or paying for transition services;

- (I) when considering initial or continued placement of a student in career and technical education (CTE):
 - (i) a representative from CTE who is knowledgeable about the availability of CTE programs offered in the district, who may be a member of the committee described in subparagraph (D) of this paragraph; or
 - (ii) a CTE teacher who is knowledgeable about the availability of CTE programs offered in the district, who may be a member of the committee described in subparagraph (B) of this paragraph;; and
 - (J) a professional staff member who is on the language proficiency assessment committee who may be a member of the committee described in subparagraphs (B) and (C) of this paragraph, if the student is identified as emergent bilingual.
- (2) The special education teacher or special education provider that participates in the ARD committee meeting must be appropriately certified or licensed as required by 34 CFR, §300.156, and further described in §89.1131 of this title (relating to Qualifications of Special Education, Related Service, and Paraprofessional Personnel).
- (3) If a teacher is dual certified in general education and special education and is serving as a prekindergarten teacher, and the teacher is or would be the only general education teacher responsible for implementing the child's IEP, that teacher may represent both the general and special education teacher as required by paragraph (1)(B) and (C) of this subsection.
- (4) If the student is:
 - (A) a student with a suspected or documented visual impairment, the ARD committee must include a teacher who is certified in the education of students with visual impairments who may be a member of the committee described in paragraph (1)(C) of this subsection if that teacher is the only special education teacher involved in implementing the student's IEP;
 - (B) a student who is suspected or documented to be deaf or hard of hearing, the ARD committee must include a teacher who is certified in the education of students who are deaf or hard of hearing who may be a member of the committee described in paragraph (1)(C) of this subsection if that teacher is the only special education teacher involved in implementing the student's IEP;
 - (C) a student with suspected or documented deaf-blindness, the ARD committee must include a teacher who is certified in the education of students with visual impairments and a teacher who is certified in the education of students who are deaf or hard of hearing, or a teacher with a deafblind certification, who may be a member of the committee described in paragraph (1)(C) of this subsection if that teacher is the only special education teacher involved in implementing the student's IEP; or
 - (D) a student who is suspected or identified with dyslexia, when determining initial or continued eligibility, the ARD committee must include a professional who meets the requirements of TEC, §29.0031(b), and §74.28 of this title (relating to Students with Dyslexia and Related Disorders), including any handbook adopted in the rule.
- (5) An ARD committee member is not required to attend an ARD committee meeting if the conditions of either 34 CFR, §300.321(e)(1), regarding attendance, or 34 CFR, §300.321(e)(2), regarding excusal, have been met.
- (d) This subsection is effective until July 1, 2027. The school district must take steps to ensure that one or both parents are present at each ARD committee meeting or are afforded the opportunity to participate, including notifying the parents of the meeting early enough to ensure that they will have an opportunity to attend and scheduling the meeting at a mutually agreed upon time and place. Additionally, a school district must allow parents who cannot attend an ARD committee meeting to participate in the meeting through other methods such as through telephone calls or video conferencing. The school district must provide the

parents with written notice of the ARD committee meeting that meets the requirements in 34 CFR, §300.322, at least five school days before the meeting unless the parents agree to a shorter timeframe.

- (e) Beginning July 1, 2027, the school district must take steps to ensure that one or both parents are present at each ARD committee meeting or are afforded the opportunity to participate, including notifying the parents of the meeting early enough to ensure that they will have an opportunity to attend and scheduling the meeting at a mutually agreed upon time and place. Additionally, a school district must allow parents who cannot attend an ARD committee meeting in person to participate in the meeting through other methods such as through telephone calls or video conferencing. The school district must provide the parents with written notice of the ARD committee meeting that meets the requirements in 34 CFR, §300.322, at least 10 calendar days before the meeting unless the parents agree to a shorter timeframe.
- (f) This subsection is effective until July 1, 2027. Upon receipt of a written request for an ARD committee meeting from a parent, the school district must:
 - (1) schedule and convene a meeting in accordance with the procedures in subsection (d) of this section; or
 - (2) within five school days, provide the parent with written notice explaining why the district refuses to convene a meeting.
- (g) Beginning July 1, 2027, within 10 school days of receipt of a written request for an ARD committee meeting from a parent, the school district must:
 - (1) provide the parent notice of scheduling options for a meeting in accordance with the procedures in subsection (e) of this section; or
 - (2) provide the parent with written notice explaining why the district refuses to convene a meeting.
- (h) The school district must provide the parent with a written notice required under subsection (d), (e) (e)(2), or (f)(2) of this section in the parent's primary language, unless it is clearly not feasible to do so. If the parent's primary language is not a written language, the school district must take steps to ensure that the notice is translated orally or by other means to the parent in his or her primary language or other mode of communication so that the parent understands the content of the notice.
- (i) This subsection is effective until July 1, 2027. Whenever a school district proposes or refuses to initiate or change the identification, evaluation, or educational placement of a student or the provision of a free appropriate public education to the student, the school district must provide prior written notice as required in 34 CFR, §300.503, including providing the notice in the parent's primary language or other mode of communication. This notice must be provided to the parent at least five school days before the school district proposes or refuses the action unless the parent agrees to a shorter timeframe.
- (j) Beginning July 1, 2027, whenever a school district proposes or refuses to initiate or change the identification, evaluation, or educational placement of a student or the provision of a free appropriate public education to the student, the school district must provide prior written notice as required in 34 CFR, §300.503, including providing the notice in the parent's primary language or other mode of communication. This notice must be provided to the parent at least 10 calendar days before the school district proposes or refuses the action unless the parent agrees to a shorter timeframe.
- (k) When a new, proposed, or existing residential placement is discussed at a student's ARD committee meeting, the materials under TEC, §29.0056, must be provided to student's parent.
- (l) When a school district is considering a change in the location of the provision of a student's special education and related services as documented in the student's IEP, the district must determine whether the change would substantially or materially alter the student's educational program. A proposed change in location must be communicated to the parent as soon as reasonably possible. When the proposed change would constitute a change in educational placement with any of the following being true, the school district must hold an ARD committee meeting and provide the parent prior written notice under 34 CFR, §300.503:
 - (1) the proposed change in location would revise the student's IEP;

- (2) the proposed change in location would decrease the extent to which the student is educated with nondisabled peers, consistent with the least restrictive environment requirements in 34 CFR, §§300.114-300.116;
 - (3) the proposed change in location would alter the student's access to non-academic or extracurricular services or activities, as described in 34 CFR, §300.117; or
 - (4) the proposed change in location represents a different point on the continuum of alternative placements required under 34 CFR, §300.115.
- (m) If the parent believes the factors in subsection (l) of this section apply to any proposed change in location, the parent may submit a written request for an ARD committee meeting and the district must respond in accordance with subsection (e) of this section.

§89.1055. Individualized Education Program.

- (a) The individualized education program (IEP) developed by the admission, review, and dismissal (ARD) committee for each student with a disability must comply with the requirements of 34 Code of Federal Regulations (CFR), §300.320 and §300.324, and include all applicable information under Texas Education Code (TEC), §29.0051, and this section.
- (b) A student's IEP must be reviewed by the student's ARD committee at least annually, which means no later than 365 days after the date of the last annual review.
- (c) A statement of the student's present levels of academic achievement and functional performance (PLAAFP) must:
 - (1) include how the student's disability affects the student's involvement and progress in the general education curriculum, or, for preschool children, how the disability affects the student's participation in appropriate activities;
 - (2) address all disability characteristics unique to the student and the student's related services needs;
 - (3) describe the student's strengths;
 - (4) identify critical needs by describing what the student's non-disabled grade-level peer is expected to do in the general education curriculum in academic areas, and include baseline data that describes the student's current skills in the area of critical need; and
 - (5) identify critical needs by describing baseline data that includes the student's current skills or behaviors in functional areas.
- (d) To be considered a measurable annual goal under 34 CFR, §300.320(a)(2), a goal must include the components of a timeframe, condition, behavior, and criterion. The ARD committee must consider the unique needs of the student and the curriculum standards to determine where in the curriculum the student may encounter barriers due to the disability or disabilities. An annual goal must be developed in areas where a critical need is identified and must not simply be restatements of the student's enrolled grade level essential knowledge and skills as described by Chapters 110-117 and 120 of this title (relating to Texas Essential Knowledge and Skills for English Language Arts and Reading, Texas Essential Knowledge and Skills for Mathematics, Texas Essential Knowledge and Skills for Science, Texas Essential Knowledge and Skills for Social Studies, Texas Essential Knowledge and Skills for Languages Other Than English, Texas Essential Knowledge and Skills for Health Education, Texas Essential Knowledge and Skills for Physical Education, Texas Essential Knowledge and Skills for Fine Arts, and Other Texas Essential Knowledge and Skills). While at least one measurable annual goal is required, the number of annual goals will be determined by the ARD committee after examination of the student's PLAAFP and areas of need.
 - (1) Annual goals are also required in the following circumstances:
 - (A) when the content of a subject/course is modified, whether the content is taught in a general or special education setting, in order to address how the content is modified; or

- (B) when a special education teacher or service provider is designated as the teacher of record or is the provider solely responsible for delivering academic or functional instruction or related services.
- (2) Short-term objectives/benchmarks, used as intermediary steps or milestones toward accomplishing an annual goal, may be included in a measurable annual goal but cannot be used as the criterion to indicate mastery of the annual goal. An ARD committee may choose to use short-term objectives/benchmarks for any student but must use them if the ARD committee has determined that a student will not participate in the general state assessment. Guidelines for short-term objectives/benchmarks are as follows:
 - (A) at least two short-term objectives/benchmarks must be included in an annual goal;
 - (B) beginning with IEPs developed or amended as of July 1, 2027, each short-term objective/benchmark must include a timeframe, condition, behavior, and criterion; and
 - (C) beginning with IEPs developed or amended as of July 1, 2027, each short-term objective/benchmark within an annual goal must have distinct time frames and differ in at least one additional component to ensure clarity and individualized progress monitoring.
- (e) The ARD committee must document in the student's IEP the service delivery schedule that specifies the projected date for the beginning of the specially designed instruction and any related services that will be provided to the student, as well as the following for all specially designed instruction and related services:
 - (1) frequency, which is how often the specially designed instruction or related service will be provided within a designated time frame;
 - (2) duration, which is the length of each session, if applicable, or any determined or anticipated end date of instruction or service; and
 - (3) location/classroom setting, which is whether the specially designed instruction or related service will be provided in a general educational location/classroom/setting or a special education location/classroom/setting.
- (f) The IEP must document on average how many minutes in the student's instructional day is spent in a location/classroom/setting outside of the general education location/classroom/setting. The IEP must also document the percentage of the student's instructional day, on average, that the student spends in a general education location/classroom/setting.
- (g) In addition to regular progress monitoring of the implementation of a student's IEP and the student's measurable annual goals, the school district must have procedures in place on how it will document compliance with the provision of any student's specially designed instruction and related services, including supplementary aids and services, and how the district will attempt to make up any student's missed specially designed instruction or related services and contingencies for emergencies, staffing issues, or other unforeseen circumstances.
- (h) The IEP must include a statement of any individual appropriate and allowable accommodations in the administration of assessment instruments developed in accordance with TEC, §39.023(a)-(c), or districtwide assessments of student achievement (if the district administers such optional assessments) that are necessary to measure the academic achievement and functional performance of the student on the assessments.
- (i) If the ARD committee determines that the student will not participate in a general statewide or districtwide assessment of student achievement (or part of an assessment), the following requirements must be met.
 - (1) The IEP must include a statement explaining:
 - (A) why the student cannot participate in the general assessment; and
 - (B) why the particular alternate assessment selected is appropriate for the student.
 - (2) The Texas Education Agency's alternate assessment participation requirements form, if one is made available to school districts, must be completed and included in the student's IEP to document the statement required under this subsection.

- (j) If the ARD committee determines that the student is in need of extended school year (ESY) services, as described in §89.1065 of this title (relating to Extended School Year Services), then the IEP must identify the IEP services that will be addressed during ESY services.
- (k) For students with visual impairments, from birth through 21 years of age, the IEP or individualized family services plan must also meet the requirements of TEC, §30.002.
- (l) For students with autism eligible under §89.1040(c)(1) of this title (relating to Eligibility Criteria), the strategies described in this subsection must be considered, at least annually based on peer-reviewed, research-based educational programming practices to the extent practicable and, when needed, addressed in the IEP:
 - (1) extended educational programming (for example: extended day and/or ESY services that consider the duration of programs/settings based on data collected related to behavior, social skills, communication, academics, and self-help skills);
 - (2) daily schedules reflecting minimal unstructured time and active engagement in learning activities (for example: lunch, snack, and recess periods that provide flexibility within routines; adapt to individual skill levels; and assist with schedule changes, such as changes involving substitute teachers and pep rallies);
 - (3) in-home and community-based training or viable alternatives that assist the student with acquisition of social, behavioral, communication, and self-help skills (for example: strategies that facilitate maintenance and generalization of such skills from home to school, school to home, home to community, and school to community);
 - (4) positive behavior support strategies based on relevant information, for example:
 - (A) antecedent manipulation, replacement behaviors, reinforcement strategies, and data-based decisions; and
 - (B) a behavioral intervention plan developed from a functional behavioral assessment that uses current data related to target behaviors and addresses behavioral programming across home, school, and community-based settings and is implemented and reviewed in accordance with subsection (t) of this section;
 - (5) beginning at any age, consistent with subsection (v) of this section, futures planning for integrated learning and training, living, work, community, and educational environments that considers skills necessary to function in current and post-secondary environments, including self-determination and self-advocacy skills;
 - (6) parent/family training and support, provided by qualified personnel with experience in autism, that, for example:
 - (A) provides a family with skills necessary for a student to succeed in the home/community setting;
 - (B) includes information regarding resources (for example: parent support groups, workshops, videos, conferences, and materials designed to increase parent knowledge of specific teaching/management techniques related to the student's curriculum); and
 - (C) facilitates parental carryover of in-home training (for example: strategies for behavior management and developing structured home environments and/or communication training so that parents are active participants in promoting the continuity of interventions across all settings);
 - (7) suitable staff-to-student ratio appropriate to identified activities and as needed to achieve social/behavioral progress based on the student's developmental and learning level (acquisition, fluency, maintenance, generalization) that encourages work towards individual independence as determined by, for example:
 - (A) adaptive behavior evaluation results;
 - (B) behavioral accommodation needs across settings; and

- (C) transitions within the school day;
- (8) communication interventions, including language forms and functions that enhance effective communication across settings (for example: augmentative, incidental, and naturalistic teaching);
- (9) social skills supports and strategies based on social skills assessment/curriculum and provided across settings (for example: peer-based instruction and intervention, video modeling, social narratives, and role playing);
- (10) professional educator/staff support (for example: training provided to personnel who work with the student to ensure the correct implementation of techniques and strategies described in the IEP); and
- (11) teaching strategies based on peer-reviewed, research-based practices for students with autism (for example: those associated with discrete-trial training, visual supports, applied behavior analysis, structured learning, augmentative communication, or social skills training).
- (m) If the ARD committee determines that services are not needed in one or more of the areas specified in subsection (l) of this section, the IEP must include a statement to that effect and the basis upon which the determination was made.
- (n) For students identified with the specific learning disability of dyslexia eligible under §89.1040(c)(9) of this title, the IEP must also be developed and implemented in accordance with law, this section, and the requirements under §74.28 of this title (relating to Students with Dyslexia and Related Disorders), including any handbook adopted under §74.28 of this title. This includes documentation of:
 - (1) the determination by the ARD committee that the student meets eligibility as a child with a disability due to the specific learning disability of dyslexia and the need for evidence-based dyslexia instruction, which is a special education service;
 - (2) the presence and involvement of the dyslexia member required by TEC, §29.0031, as noted by the signature in the IEP documenting the member's presence and involvement at the ARD committee meeting; and
 - (3) the student's parent being notified, either at the ARD committee meeting or by another method, of the Talking Book Program administered by the Texas State Library of Archives Commission and other available audio book services as required by TEC, §29.0031(e).
- (o) Beginning with IEPs developed or amended as of July 1, 2027, to correspond with subsection (n) of this section, IEPs must also document:
 - (1) decisions around appropriate reading instruction, which must include the program name and all components and delivery of dyslexia instruction as identified under §74.28 of this title, including any handbook adopted in the rule;
 - (2) how the district's evidence-based dyslexia instruction program addresses the required components of dyslexia instruction and whether the student's PLAAFP or other areas of the IEP show evidence that the program must be supplemented with a focus on one or more components;
 - (3) how the program addresses the required instructional delivery methods and whether the student's PLAAFP or other areas of the IEP show evidence that the program must be supplemented to meet the student's needs;
 - (4) the fidelity statements/requirements that are included with the program and how those will be delivered and/or intensified for the student;
 - (5) a fully trained provider of dyslexia instruction identified under §74.28 of this title being assigned to implement the program for the student; and
 - (6) whether the IEP goal progress report will meet the requirements for the dyslexia progress report required under TEC, §29.0031(d), or whether a separate progress report will be communicated to a parent.

- (p) If the ARD committee determines that one or more of the areas specified in subsection (o)(1)-(4) of this section are not applicable to the student, the IEP must include a statement to that effect and the basis upon which the determination was made. Note that any ARD committee discussions that are required under §74.28 of this title, including any handbook adopted under §74.28 of this title, still apply prior to July 1, 2027. Subsection (o) of this section specifically applies to documentation in the IEP as of July 1, 2027.
- (q) A district is prohibited from identifying a specific learning disability as one solely in basic reading or reading fluency as a means to circumvent the requirements for students identified with dyslexia. If a specific learning disability in basic reading or reading fluency is not also identified as dyslexia, the IEP must document why and how the committee came to that conclusion.
- (r) Beginning with IEPs developed or amended as of July 1, 2027, for students identified with the specific learning disability of dysgraphia eligible under §89.1040(c)(9) of this title, the IEP must also be developed and implemented in accordance with law, this section, and the requirements under §74.28 of this title, including any handbook adopted under §74.28 of this title. This includes documentation of:
 - (1) the determination by the ARD committee that the student meets eligibility as a child with a disability due to the specific learning disability of dysgraphia and the need for special education and related services; and
 - (2) decisions around appropriate writing instruction, including whether the student needs explicit, systematic instruction in handwriting; handwriting and spelling; or handwriting, spelling, and written expression.
- (s) Beginning with IEPs developed or amended as of July 1, 2027, for students whose special education and related services also meet the criteria for medical and transportation services eligible for reimbursement under the School Health and Related Services (SHARS) Medicaid program, and the district is or expects to become an eligible provider, the student's IEP must document those services the district plans to submit for SHARS reimbursement determined to be both necessary for a free appropriate public education for purposes of compliance with the Individuals with Disabilities Education Act and medically necessary and reasonable for purposes of Medicaid reimbursement. Each student's IEP shall contain the necessary information to comply with the requirements set by the Texas Health and Human Services Commission to help ensure that submissions for reimbursement are accurate.
- (t) If the ARD committee determines that a behavior improvement plan or a behavioral intervention plan is appropriate for a student, that plan must be included as part of the student's IEP and provided to each teacher with responsibility for educating the student. If a behavior improvement plan or a behavioral intervention plan is included as part of a student's IEP, the ARD committee shall review the plan at least annually, and more frequently if appropriate, to address:
 - (1) changes in a student's circumstances that may impact the student's behavior, such as:
 - (A) the placement of the student in a different educational setting;
 - (B) an increase or persistence in disciplinary actions taken regarding the student for similar types of behavioral incidents;
 - (C) a pattern of unexcused absences; or
 - (D) an unauthorized, unsupervised departure from an educational setting; or
 - (2) the safety of the student or others.
- (u) Not later than the first IEP to be in effect when the student turns 14 years of age, the ARD committee must discuss and address the following issues in the IEP:
 - (1) appropriate student involvement in the student's transition to life outside the public school system;
 - (2) appropriate involvement in the student's transition by the student's parents and other persons invited to participate by:
 - (A) the student's parents; or
 - (B) the school district in which the student is enrolled;

- (3) appropriate postsecondary education options, including preparation for postsecondary-level coursework;
- (4) whether a functional vocational evaluation is appropriate;
- (5) appropriate circumstances for facilitating a referral of a student or the student's parents to a governmental agency for services or public benefits, including a referral to a governmental agency to place the student on a waiting list for public benefits available to the student such as a waiver program established under the Social Security Act (42 U.S.C. Section 1396n(c)), §1915(c); and
- (6) the use and availability of appropriate:
 - (A) supplementary aids, services, curricula, and other opportunities to assist the student in developing decision-making skills; and
 - (B) supports and services to foster the student's independence and self-determination, including a supported decision-making agreement under Texas Estates Code, Chapter 1357.
- (v) Beginning not later than the first IEP to be in effect when the student turns 14 years of age, or younger if determined appropriate by the ARD committee, the IEP must include:
 - (1) appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and
 - (2) the transition services, including courses of study, needed to assist the student in reaching the postsecondary goals.
- (w) The goals included in a student's IEP to comply with subsection (v) of this section are intended to comply with the requirements in TEC, §29.011(a)(6) and (8).
- (x) Beginning not later than the first IEP to be in effect when the student turns 18 years of age (see §89.1049 of this title (relating to Parental Rights Regarding Adult Students) for notice requirement of transfer of rights), the ARD committee must discuss and address the following issues in the student's IEP:
 - (1) appropriate involvement in the student's transition and future by the student's parents and other persons, if the parent or other person:
 - (A) is invited to participate by the student or the school district in which the student is enrolled; or
 - (B) has the student's consent to participate pursuant to a supported decision-making agreement under Texas Estates Code, Chapter 1357; and
 - (2) the availability of age-appropriate instructional environments, including community settings or environments that prepare the student for postsecondary education or training, competitive integrated employment, or independent living, in coordination with the student's transition goals and objectives.
- (y) A student's ARD committee shall review at least annually the issues described in subsections (u), (v), and (x) of this section and, if necessary, update the portions of the student's IEP that address those issues.
- (z) All members of the ARD committee must have the opportunity to participate in a collaborative manner in developing the IEP. The school district must take all reasonable actions necessary to ensure that the parent understands the proceedings of the ARD committee meeting, including arranging for an interpreter for parents who are deaf or hard of hearing or whose primary language is a language other than English. A decision of the ARD committee concerning required elements of the IEP must be made by mutual agreement if possible. The ARD committee may agree to an annual IEP or an IEP of shorter duration.
 - (1) When mutual agreement about all required elements of the IEP is not achieved, the parent who disagrees must be offered a single opportunity to recess and reconvene the ARD committee meeting. The period of time for reconvening the ARD committee meeting must not exceed ten school days, unless the parties mutually agree otherwise. The ARD committee must schedule the reconvened meeting at a mutually agreed upon time and place. The opportunity to recess and

reconvene is not required when the student's presence on the campus presents a danger of physical harm to the student or others or when the student has committed an expellable offense or an offense that may lead to a placement in a disciplinary alternative education program. The requirements of this subsection do not prohibit the ARD committee from recessing an ARD committee meeting for reasons other than the failure to reach mutual agreement about all required elements of an IEP.

- (2) During the recess, the ARD committee members must consider alternatives, gather additional data, prepare further documentation, and/or obtain additional resource persons who may assist in enabling the ARD committee to reach mutual agreement.
 - (3) If a recess is implemented as provided in paragraph (1) of this subsection and the ARD committee still cannot reach mutual agreement, the school district must implement the IEP that it has determined to be appropriate for the student.
 - (4) Each member of the ARD committee who disagrees with the IEP developed by the ARD committee is entitled to include a statement of disagreement in the IEP.
- (aa) The written statement of the IEP must document the decisions of the ARD committee with respect to issues discussed at each ARD committee meeting. The written statement must also include:
- (1) the date of the meeting;
 - (2) the name, position, and signature of each member participating in the meeting; and
 - (3) an indication of whether the child's parents, the adult student, if applicable, and the representative of the school district as identified in §89.1050(c)(1)(D) of this title (relating to The Admission, Review, and Dismissal Committee) agreed or disagreed with the decisions of the ARD committee.
- (bb) If the student's parent is unable to speak English and the parent's primary language is Spanish, the school district must provide a written copy or audio recording of the student's IEP translated into Spanish. If the student's parent is unable to speak English and the parent's primary language is a language other than Spanish, the school district must make a good faith effort to provide a written copy or audio recording of the student's IEP translated into the parent's primary language.
- (1) For purposes of this subsection, a written copy of the student's IEP translated into Spanish or the parent's primary language means that all of the text in the student's IEP in English is accurately translated into the target language in written form. The IEP translated into the target language must be a comparable rendition of the IEP in English and not a partial translation or summary of the IEP in English.
 - (2) For purposes of this subsection, an audio recording of the student's IEP translated into Spanish or the parent's primary language means that all of the content in the student's IEP in English is orally translated into the target language and recorded with an audio device. A school district is not prohibited from providing the parent with an audio recording of an ARD committee meeting at which the parent was assisted by an interpreter as long as the audio recording provided to the parent contains an oral translation into the target language of all of the content in the student's IEP in English.
 - (3) If a parent's primary language is not a written language, the school district must take steps to ensure that the student's IEP is translated orally or by other means to the parent in his or her primary language or other mode of communication.
- (cc) A school district must give a parent a written copy of the student's finalized IEP at no cost to the parent as soon as possible, but, beginning with IEPs developed or amended as of July 1, 2027, no later than within 10 school days after the date on which it is finalized. If a written translation of the student's IEP that has been developed or amended beginning on July 1, 2027, in the parent's primary language in accordance with subsection (bb)(1) of this section will exceed 10 school days, the district must inform the parent and provide it to the parent as soon as the written translation is available. The district must document internally the date on which the IEP was provided to the parent and how it was provided (e.g., web portal, email, mail).

- (dd) A school district must comply with the following for a student who is new to the school district.
- (1) When a student transfers to a new school district within the state in the same school year and the parents or previous school district verifies that the student had an IEP that was in effect in the previous district, the new school district must meet the requirements of 34 CFR, §300.323(e), by either adopting the student's IEP from the previous school district or developing, adopting, and implementing a new IEP. The timeline for adopting the previous IEP or developing, adopting, and implementing a new IEP is 20 school days from the date the student is verified as being a student eligible for special education services.
 - (2) When a student transfers from a school district in another state in the same school year and the parents or previous school district verifies that the student had an IEP that was in effect in the previous district, the new school district must, if determined necessary, conduct a full individual and initial evaluation and make an eligibility determination and, if appropriate, develop, adopt, and implement a new IEP, within the timelines established in §89.1011 of this title (relating to Full and Individual Initial Evaluation). If the school district determines that an evaluation is not necessary, the timeline for the new district to develop, adopt, and implement a new IEP is 20 school days from the date the student is verified as being a student eligible for special education services.
 - (3) Students who register in a new school district in the state during the summer when students are not in attendance for instructional purposes, the provisions of paragraphs (1) and (2) of this subsection apply based on whether the students are coming from an in-state or out-of-state school district. All other provisions in this subsection apply to these students.
 - (4) If a student is absent from school on three or more days between the date the student is verified as being a student eligible for special education services and 20 school days, that period described by paragraphs (1) and (2) of this subsection may be extended by the number of school days equal to the number of school days during that period on which the student was absent.
 - (5) In accordance with 34 CFR, §300.323(g), the new school district must take reasonable steps to promptly obtain the student's records from the previous school district, and, in accordance with TEC, §25.002, and 34 CFR, §300.323(g), the previous school district must furnish the new school district with a copy of the student's records, including the student's special education records, not later than the 10th working day after the date a request for the information is received by the previous school district.
 - (6) If a parent hasn't already provided verification of eligibility and the new school district has been unable to obtain the necessary verification records from the previous district by the 15th working day after the date a request for the records was submitted by the new district to the previous district, the new school district must seek verification from the student's parent. If the parent provides verification, the new school district must comply with all paragraphs of this subsection. The new school district is encouraged to ask the parent to provide verification of eligibility before the 15th working day after the date a request for the records was submitted by the new district to the previous district. If the parent is unwilling or unable to provide such verification, the new district must continue to take reasonable steps to obtain the student's records from the previous district and provide any services comparable to what the student received at the previous district if they communicate those to the new district.
 - (7) For the purposes of this subsection, "verify" means that the new school district has received a copy of the student's IEP that was in effect in the previous district. The first school day after the new district receives a copy of the student's IEP that was in effect in the previous district begins the timelines associated with paragraphs (1) and (2) of this subsection.
 - (8) While the new school district waits for verification, the new school district must take reasonable steps to provide, in consultation with the student's parents, services comparable to those the student received from the previous district if the new school district has been informed by the previous school district of the student's special education and related services and placement.

- (9) Once the new school district receives verification that the student had an IEP in effect at the previous district, comparable services must be provided to a student during the timelines established under paragraphs (1) and (2) of this subsection. Comparable services include provision of ESY services if those services are identified in the previous IEP or if the new district has reason to believe that the student would be eligible for ESY services.

§89.1096. Provision of Services for Parentally Placed Private School Children with Disabilities.

- (a) In accordance with 34 Code of Federal Regulations (CFR), §300.137, no eligible student who has been placed by his or her parent(s) in a private school or facility has an individual right to receive some or all of the special education and related services that the student would receive if he or she were enrolled in a public school. A school district's obligations with respect to students placed by their parents in private schools are governed by 34 CFR, §§300.130-300.144.
- (1) For purposes of this section, private school is defined as a private elementary or secondary school, including any pre-school, religious school, and institutional day or residential school, that:
- (A) as required by 34 CFR, §300.13 and §300.130, is a nonprofit entity that meets the definition of nonprofit in 34 CFR, §77.1; and
- (B) as determined by the public school evaluating the child for eligibility as a child with a disability under the Individuals with Disabilities Education Act (IDEA) based on documentation obtained by the public school, parent, or private school, provides elementary or secondary education that incorporates an adopted curriculum designed to meet basic educational goals, including scope and sequence of courses, and formal review and documentation of student progress.
- (2) A home school must meet the requirements of paragraph (1)(B) of this subsection, but not paragraph (1)(A) of this subsection, to be considered a private school for purposes of subsections (a) and (d) of this section.
- (b) When a student has been determined to be a child with a disability under IDEA but has been placed by his or her parents directly in a private school or facility, an admission, review, and dismissal (ARD) committee meeting of the district of the child's residence will determine whether the district can offer the student a free appropriate public education (FAPE). If the district determines that it can offer a FAPE to the student or if the parent declares that FAPE is not at issue when requesting an evaluation, the district is not responsible for providing educational services to the student, except as provided in 34 CFR, §§300.130-300.144, and subsection (d) of this section, until such time as the parents choose to enroll the student in public school full time.
- (c) This subsection applies only through the end of the 2026-2027 school year. Parents of an eligible student ages 3 or 4 shall have the right to "dual enroll" their student in both the public school and the private school beginning on the student's third birthday and continuing until the end of the school year in which the student turns five or until the student is eligible to attend a district's public school kindergarten program, whichever comes first, subject to paragraphs (1)-(3) of this subsection. The public school district where a student resides is responsible for providing special education and related services to a student whose parents choose dual enrollment.
- (1) The student's ARD committee shall develop an individualized education program (IEP) designed to provide the student with a FAPE in the least restrictive environment appropriate for the student.
- (2) From the IEP, the parent and the district shall determine which special education and/or related services will be provided to the student and the location where those services will be provided, based on the requirements concerning placement in the least restrictive environment set forth in 34 CFR, §§300.114-300.120, and the policies and procedures of the district.
- (3) For students served under the provisions of this subsection, the school district shall be responsible for the employment and supervision of the personnel providing the service, providing the needed instructional materials, and maintaining pupil accounting records. Materials and services provided shall be consistent with those provided for students enrolled only in the public school and shall remain the property of the school district.

- (d) Parents of a parentally placed private school child with a disability may request an individualized services plan (ISP) as described in 34 CFR, §§300.130-300.144. The public school district where the private school is located is responsible for the development and implementation of an ISP if the student is designated to receive services under 34 CFR, §300.132.
- (e) 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 paragraphs (1)-(3) of this subsection.
- (f) At the ARD committee meeting at which eligibility is determined for a child who is not enrolled in public school, the ARD committee must develop the IEP described by subsection (e) or (g) of this section 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.
- (g) An IEP written in compliance with TEC, §29.005, and 34 CFR, §300.320, may also be used for purposes of eligibility under TEC, §29.3615.
- (h) 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 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 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.
- (i) 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.
- (j) The IEP developed solely for purposes of TEC, §29.3615, under subsection (e) of this section is not subject to appeal.
- (k) 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 IDEA, Part B, 34 CFR, §300.1. et. seq., as applicable.