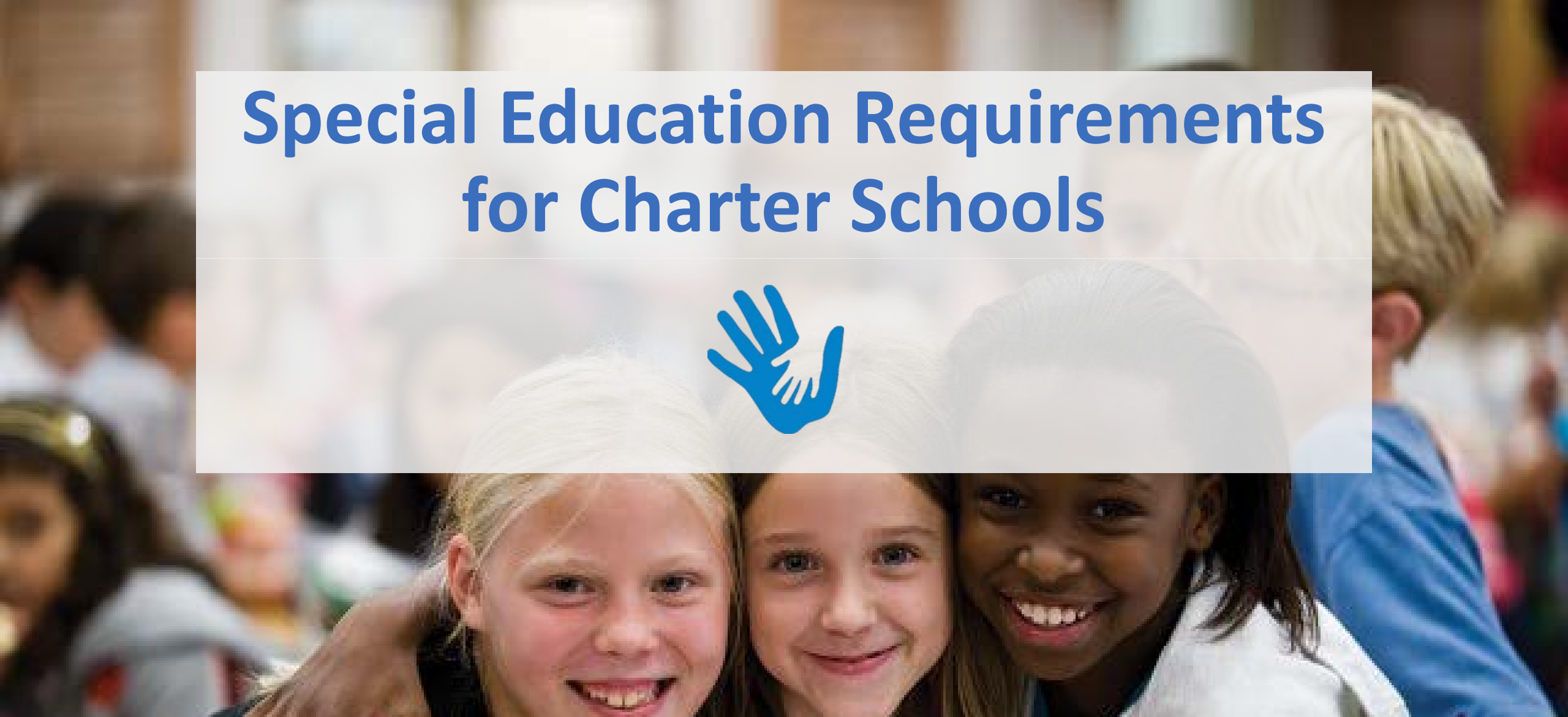




Special Education Requirements for Charter Schools



Agenda

What is Special Education

Admission, Review, and Dismissal (ARD) Committee

Requirements of Charter Schools for SPED

Child Find

Evaluations

Individual Education Plans (IEPs)



- The **Individuals with Disabilities Education Act of 2004 (IDEA)** is the federal law that governs the special education process.

- One of the main purposes of IDEA is to ensure that children with disabilities have available to them a **free appropriate public education (FAPE)** that emphasizes:
 - special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living.



- **Special education** means **specially designed instruction** to meet the unique needs of a child with a disability.
- **Related services** are special services needed to support students' special education services so they can make progress to meet their academic and functional goals. Related services can include services such as occupational therapy, physical therapy, speech-language therapy, counseling services, orientation and mobility services, and/or transportation services.

(Parent's Guide to the Admission, Review, and Dismissal Process, July 2018, p. i)

In Texas, a child's eligibility for special education services and most of the major decisions about a child's special education program are made by an admission, review, and dismissal (ARD) committee. You may also hear this group referred to as an individualized education program (IEP) team, which is the term used in federal law.

Typical ARD Committee Members:

- the parent;
- at least one regular education teacher of the child who must, when possible, be a teacher who is responsible for implementing a portion of the child's IEP;
- at least one special education teacher or provider of the child;
- a representative of the school;
- a person who can interpret the instructional implications of the evaluation results;

What are the Requirements for Charter Schools in Terms of Special Education?



- Charter schools have the same legal requirements as any other public school in terms of providing special education and related services to students.
- Charter schools must meet all federal and state requirements related to special education that are found in IDEA, the Texas Education Code (TEC), and the Texas Administrative Code (TAC).
- Charter schools **cannot** deny admission to students on the basis of a disability or because of a student's need for special education and related services.
- Charter schools must ensure that each of its students with an IEP receives all special education services and supports identified in the student's IEP in the least restrictive environment that the student needs in order to receive a FAPE.

Let's look at some of those requirements in detail.

Whom Must Charter Schools Serve? Everyone!



Charter schools must have the capacity to provide:

- Full array of nondiscriminatory **evaluation services**
- Full array of **special education services and related services**
- Full **continuum of placement options**

Charter Schools Must Provide Services to Students With

- autism
- deaf-blindness
- auditory impairment
- emotional disturbance
- intellectual disability
- multiple disabilities
- orthopedic impairment
- other health impairment
- learning disabilities
- speech impairment
- traumatic brain injury
- visual impairment
- student who is classified as noncategorical (which is student between the ages of 3-5 who is evaluated as having an intellectual disability, an emotional disturbance, a specific learning disability, or autism)

Are there limits on the amount or type of special education or related services that can be provided to students with Individualized Education Programs (IEPs) who attend charter schools?



- No. Students with disabilities attending charter schools and their parents retain all rights under Part B of IDEA, **as they would in other public schools.**
- A charter school **may not** unilaterally limit the services it will provide a particular student with a disability.
- When a student's IEP includes special education and related services that the charter school does not currently offer, the charter school has several options to address the student's needs. It **does not** have the option of refusing to ensure that the student is provided all necessary special education and related services at public expense and at no cost to the parents in accordance with the student's IEP.

If the student's IEP includes transportation, is the charter school responsible for providing that transportation?



Transportation is included as a **related service** under the regulations in 34 CFR §300.34(a) and (c)(16). It includes travel to and from school and between schools; travel in and around school buildings; and specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability. If a child with a disability requires transportation as a related service, then **the charter school is responsible for providing that transportation.**



IDEA requires that all children with disabilities residing in the state, who are in need of special education and related services, must be identified, located, and evaluated.

These activities are called **Child Find**.

Charter schools **are** responsible for **Child Find** for students enrolled in the school.

19 TAC §89.1011. Full and Individual Initial Evaluation.

- (a) **Referral of students for a full individual and initial evaluation for possible special education services must be a part of the district's overall, general education referral or screening system. Prior to referral, students experiencing difficulty in the general classroom should be considered for all support services available to all students, such as tutorial; remedial; compensatory; response to scientific, research-based intervention; and other academic or behavior support services. If the student continues to experience difficulty in the general classroom after the provision of interventions, district personnel must refer the student for a full individual and initial evaluation. This referral for a full individual and initial evaluation may be initiated by school personnel, the student's parents or legal guardian, or another person involved in the education or care of the student.**

Child Find: Federal Mandate under IDEA

- **CHILD FIND** is the affirmative, **ongoing** obligation of local education agencies (LEAs) to identify, locate and evaluate all children with disabilities residing within the jurisdiction who need special education and related services.
- An LEA may not take a passive approach and wait for others to refer students for special education services. The LEA should seek out Individuals with Disabilities Education Act (IDEA) eligible student

- Nondiscriminatory evaluations must be provided in the student's **native language** or other mode of communication; administered by trained professionals; tailored to assess specific areas of educational need; and, reflective of the student's aptitude and achievement.

- Once the school has obtained **signed, written consent** from the parent, a state-established timeline for completing the evaluation begins.
 - In most (but not all) situations, the school has **45 school days** to complete the evaluation.

Upon completion of the evaluation, in most (but not all) situations, the school will have 30 calendar days from the date of the evaluation report to hold an admission, review, and dismissal (ARD) committee meeting **with** the parent to review the evaluation and determine whether the student is eligible for special education and related services.

How may a charter school implement a response to intervention (RTI) framework as part of its child find process?



- The charter school may implement a multi-tiered instructional framework, often referred to as Response to Intervention (RTI), prior to referring a student for an evaluation under IDEA; however, **it is critical that the child find process occurs in a timely manner and that no procedures or practices result in delaying or denying this identification.**
- **A parent may request an initial evaluation at any time** to determine if the student is a student with a disability, **regardless of whether the student participated in an RTI framework.** The charter school **may not** reject a referral or delay provision of an initial evaluation on the basis that a student has not participated in an RTI framework.



See 19 TAC §89.1011 for more information.



- If the student is eligible for special education and related services, the ARD Committee will develop a written IEP for the student that outlines all special education and related services the student needs and how the student will be educated in the **least restrictive environment (LRE)**.
- LRE mandates that students with disabilities must be educated in the general education environment **with their non-disabled peers, to the maximum extent appropriate**.
- The IEP must be developed in accordance with IDEA and state special education laws.
- The school **must provide** the student with **all special education services, supports, and related services identified in the student's IEP**.

What are a charter school's responsibilities for serving a student with a disability once that student is enrolled?

The charter school must have an IEP in place for each student on the first day of school. In general, once a student with a disability is enrolled in the charter school, the charter school must convene an IEP team meeting to develop, review, and revise the student's IEP.

What are a charter school's responsibilities for serving a student with a disability once that student is enrolled?



Each student's IEP must include, among other things:

- a statement of the student's annual goals, including academic and functional goals, the special education, related services and supplementary aids and services, and the program modifications or supports for school personnel.
- The program of services set out in the student's IEP must enable the student to advance appropriately toward attaining his or her annual goals and to be involved and make progress in the general education curriculum, i.e., the same curriculum as for nondisabled students.
- Once the IEP is developed, the group charged with determining the student's placement, which includes other qualified professionals and the student's parents, must then determine how to implement the student's IEP in accordance with IDEA's LRE requirements.

Continuum of Placements

- A core part of the special education process involves determining the appropriate educational placement for implementing a student's IEP.
- Placement refers to the points along the continuum of placement options (i.e., regular classes, special classes, special schools, homebound instruction, instruction in hospitals and institutions) available for a student with a disability.

(Parent's Guide to the Admission, Review and Dismissal Process, July 2018, p. 11)

Continuum of Placements

A charter school, like all other public schools, must provide a continuum of alternative placements to students with disabilities. This continuum includes the following placement options, as noted in 19 TAC §89.63, Instructional Arrangements and Settings.

- **Mainstream:** This instructional arrangement/setting is for providing special education and related services to a student in the regular classroom in accordance with the student's IEP.
- **Homebound:** This instructional arrangement/setting is for providing special education and related services to students who are served at home or hospital bedside.
- **Resource room/services:** This instructional arrangement/setting is for providing special education and related services to a student in a setting other than regular education for less than 50% of the regular school day.
- **Self-contained (mild, moderate, or severe) regular campus:** This instructional arrangement/setting is for providing special education and related services to a student who is in a self-contained program for 50% or more of the regular school day on a regular school campus.

What requirements apply to students with disabilities attending charter schools with respect to their participation in extracurricular and nonacademic activities?



- If a charter school provides programs or activities such as counseling services, athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the public agency, and referrals to agencies that provide assistance to individuals with disabilities, to nondisabled students, it also must provide these services and activities to students with disabilities.
- Additionally, the student's IEP must include a statement of the supplementary aids and services that the student needs to participate in nonacademic and extracurricular services and activities offered at the charter school.

Special Education Staff: Certification and Licensure

- Every Student Succeeds Act (ESSA) removed the "highly qualified teacher" requirement. However...
- 19 TAC §89.1131. Qualifications of Special Education, Related Service, and Paraprofessional Personnel. *(in part)*
 - All special education and related service personnel must be certified, endorsed, or licensed in the area or areas of assignment in accordance with 34 Code of Federal Regulations, §300.156; the Texas Education Code, §§21.002, 21.003, and 29.304; or appropriate state agency credentials.
- **Therefore, charter schools have the same certification, endorsement, and licensing requirements for special education providers as all other public schools.**

- Different rules and limitations apply to disciplinary actions taken against students with disabilities than apply to actions taken against nondisabled students.

- A school must hold a **manifestation determination review (MDR)** if the disciplinary action would result in a **change of placement**.

Change of Placement

For purposes of removals of the child with a disability from the child's current educational placement, **a change of placement occurs if:**

- The removal is for more than 10 consecutive school days; or
- The child has been subjected to a series of removals that constitute a pattern:
 - Because the series of removals total more than 10 school days in a school year;
 - Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and
 - Because of additional factors such as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.

Manifestation Determination Review

Schools must hold a manifestation determination **within 10 school days** of any decision to change a student's placement as a result of a disciplinary action.

A manifestation determination asks **two questions**:

- Was the behavior caused by, or did it have a direct and substantial relationship to, the student's disability?
- Was the behavior a direct result of the school's failure to implement the student's IEP?

Manifestation Determination Review

- If the answer to **either** question is “yes,” the school must:
 - Conduct a functional behavioral assessment, unless one has already been conducted, and implement a behavioral intervention plan (BIP) for the student; or
 - If the student already has a BIP, the school must review and revise it in order to address the behavior.
 - Additionally, the school must return the student to his/her previous placement unless the school and the parent agree otherwise.
- Schools must continue to provide educational services for IDEA-eligible students with disabilities who have been suspended or expelled for more than 10 school days.

IDEA contains procedures for resolving disputes between families and the school. In the event that a parent believes that a public school, **including a charter school**, is not meeting its special education responsibilities, the parent may:

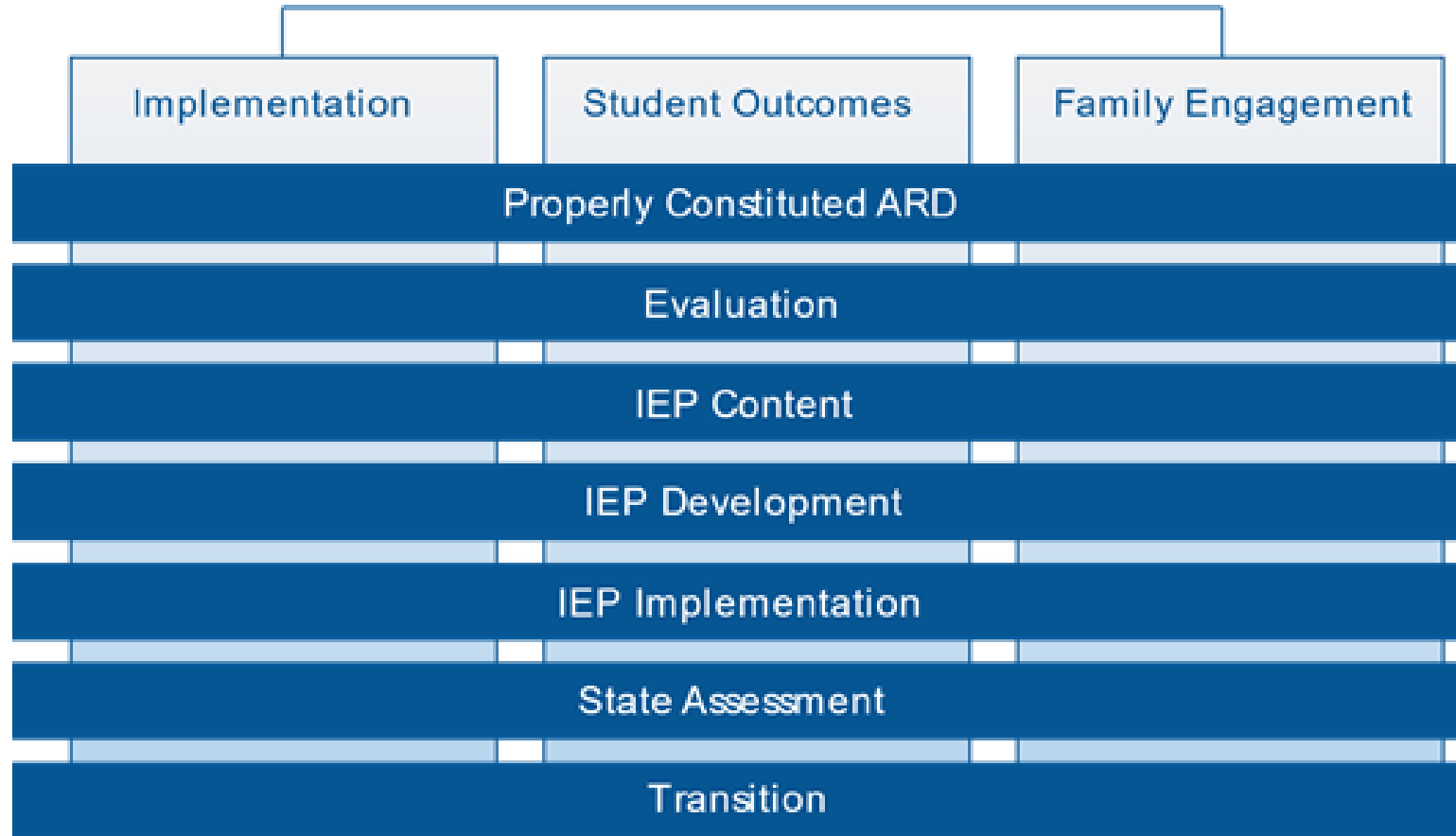
- file a special education complaint with TEA,
- request mediation through TEA, and/or
- request a due process hearing through TEA.



Differentiated Monitoring and Support

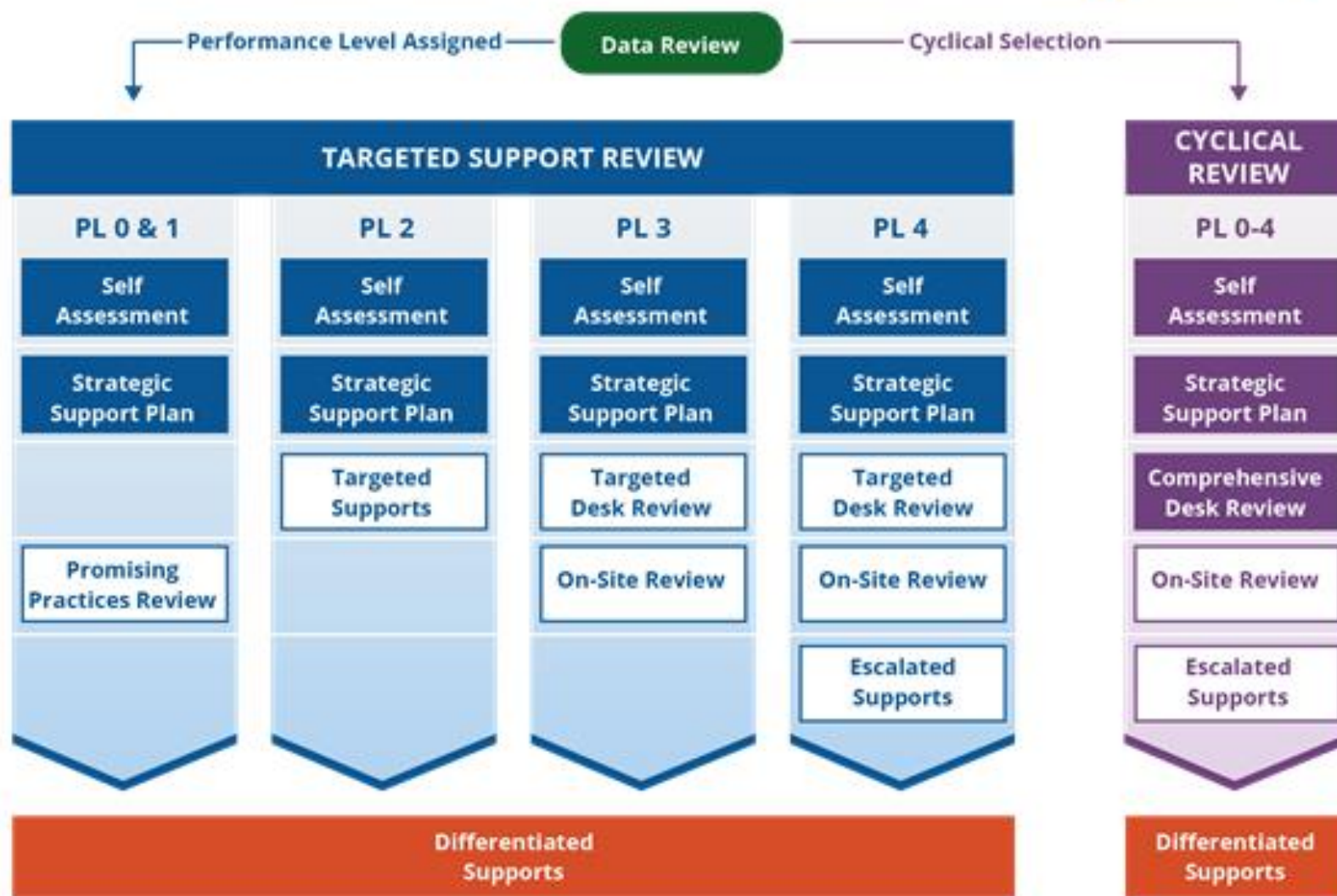


DIAGNOSTIC FRAMEWORK



Three IDEA
implementation
domains

Seven focus
areas of
compliance





Resources for more information:

IDEA Regulations:

<http://idea.ed.gov/explore/view/p/%2Croot%2Cregs%2C>

Legal Framework: <http://framework.esc18.net/display/Webforms/LandingPage.aspx>

Texas Administrative Code, Chapter 89: <http://ritter.tea.state.tx.us/rules/tac/chapter089/>

Texas Education Agency's Website:

[http://tea.texas.gov/Curriculum and Instructional Programs/Special Education/](http://tea.texas.gov/Curriculum_and_Instructional_Programs/Special_Education/)

Texas Education Code:

<http://www.statutes.legis.state.tx.us/?link=ED>

Resources for more information:

Find OSEP Policy Documents Regarding the Education of Children and Youth with Disabilities at <https://www2.ed.gov/policy/speced/guid/idea/letters/revpolicy/tpchar.html>

See OSERS *Frequently Asked Questions about the Rights of Students with Disabilities in Public Charter Schools under the Individuals with Disabilities Education Act* at: https://sites.ed.gov/idea/files/policy_speced_guid_idea_memosdcltrs_faq-idea-charter-school.pdf

For more information on procedural safeguards and dispute resolution, see the *Questions and Answers on the IDEA Part B Dispute Resolution Procedures* available at: <https://www2.ed.gov/policy/speced/guid/idea/memosdcltrs/accombinedosersdisputeresolutionqafinalmemo-7-23-13.pdf>

OSERS's *Questions and Answers on Discipline Procedures, Revised June 2009* is available at: <http://idea.ed.gov/explore/view/p/%2Croot%2Cdynamic%2CQaCorner%2C7%2C>

Questions?



Presenter Contact Information:

Dawne Vanderhule

Child Find, Evaluation, and ARD Support Coordinator

Texas Education Agency

Dawne.Vanderhule@tea.Texas.gov

www.tea.Texas.gov/texassped



Presenter Contact Information



Stacy Venson

Review and Support Manager

Texas Education Agency

Stacy.venson@tea.texas.gov

[https://tea.texas.gov/Academics/Special_Student_Populations/
Review_and_Support/Review_and_Support](https://tea.texas.gov/Academics/Special_Student_Populations/Review_and_Support/Review_and_Support)

Thank you!

