Referral for Special Education Services

State rules clearly that if a student continues to experience difficulty in the general classroom after the provision of intervention, district personnel must refer the student for evaluation for special services.

Recently enacted legislation provides that generally the district must conduct an assessment of the referred student within 45 school days of receipt of written consent for the evaluation from the parent/guardian. Certain exceptions apply when the parental consent is given close to the end of the school year.

The Individualized Education Program (IEP) team must then meet to develop an IEP for the child within 30 days of the evaluation (or determination that the child needs special education services). The IEP must be implemented “as soon as possible” after the IEP team meeting, meaning “without undue delay.”

Who Must Attend IEP Team/ARD Committee Meetings

Federal law requires that at least one regular education teacher be a member of the IEP team (or ARD committee) if the student is or may be placed in a regular education setting.

However, the law provides that members of the IEP team/ARD committee are not required to attend meetings if the parent of the student and the school district agree that the attendance of such member is not necessary because the member’s area of the curriculum or related services is not being modified or discussed in the meeting. If the member’s area of the curriculum is being discussed, the member can still be excused by submitting written input on the development of the IEP prior to the meeting.

The law also allows the parent and the school district to agree to make changes to an IEP after the annual IEP meeting without convening another meeting, but by: making the changes in writing; allowing the IEP team to meet via conference call or video; and by requiring school districts to consolidate IEP team meetings as much as possible.

State rules provide that all ARD committee members must have the opportunity to participate in a collaborative manner in developing the IEP. A committee decision concerning required elements of the IEP must be made by mutual agreement of the required members if possible. When mutual agreement is not reached, a written statement of the basis for the disagreement must be included in the IEP. The members who disagree must be offered the opportunity to write their own statements.
Regular Education Teachers Required on the IEP Team/ARD Committee

State rules provide that the regular education teacher who serves as a member of a student’s ARD committee should be a regular education teacher responsible for implementing a portion of the student’s IEP.

Required Elements of the IEP

The IEP must contain a statement of the program modifications or supports for school personnel that will be provided for the child. These are tools the will help school personnel work more effectively with the child and could include special training for the child’s teacher. The IEP must include enough information to enable teachers to understand what is required to effectively implement it. TCTA-initiated legislation passed in 2013 specifies that a student’s Behavioral Intervention Plan is also considered to be part of the IEP.

IEP Distribution

Federal regulation that the child’s IEP must be accessible to each regular education teacher and to anyone else responsible for its implementation as soon as possible after it is finalized and before beginning work with the child. (Texas rules require that each teacher of the child be provided a copy of the IEP.)

Inclusion and ARDS/IEP Teams

Federal and State Requirements

Federal rules for the Individuals with Disabilities Education Improvement Act (IDEA) require that “to the maximum extent appropriate, children with disabilities ... are educated with children who are nondisabled; and that ... removal of children with disabilities from the regular [classroom] occurs only if the ... disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.”

State law says that in a mainstream classroom “student with disabilities and their teachers [must] receive the direct, indirect, and support services ... necessary to enrich the regular classroom and enable student success.”

State rules provide that support service shall include, but not be limited to, collaborative planning, co-teaching, small group instruction with special and regular education students, direct instruction to special education students, or other support services determined necessary by the Admission, Review and Dismissal (ARD) committee.
Regular Education Teacher IEP Review/Input

TCTA-initiated legislation requires school districts to develop a process for regular education teachers teaching special education students to request a review of the student’s Individualized Education Program (IEP). The process must include a provision for a timely district response to the request and district notification to the student’s parent of the district’s response.

TEA rules also require each school district to have procedures to ensure that each teacher involved in a student’s instruction has the opportunity to provide input and request assistance regarding the implementation of the student’s IEP.

The district’s procedures must include a method for the district to determine whether further consideration is necessary and whether this consideration will be informal or will require an ARD committee meeting. If the district determines that an ARD committee meeting is necessary, the student’s current regular and special education teachers must have an opportunity to provide input.