



Special Education Operating Guidelines 2025-2026

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Child Find

CHILD FIND DUTY

SPECIAL EDUCATION VERIFICATION

For purposes of the requirements set forth in this Policy, “verify” means that the new school district has received a copy of the student’s individualized education program (“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 set forth in 19 TAC 89.1055(s)(1), (2).

19 TAC 89.1055(s)(6).

STUDENTS WHO TRANSFER WITH AN IEP DURING THE SAME SCHOOL YEAR

In accordance with 34 CFR 300.323(g), **Arrow Academy** shall take reasonable steps to promptly obtain the student’s records from a previous school or district in order to facilitate the student’s transition, and for students transferring from **Arrow Academy**, **Arrow Academy** will furnish a copy of the student’s records, including the student’s special education records, to the student’s new school not later than the 10th working day after the date **Arrow Academy** received the request for information.

34 FR 300.323(g); TEC 25.002; 19 TAC 89.1055(s)(4).

Texas Transfers

When a student transfers to **Arrow Academy** from another school district within Texas, **Arrow Academy** shall provide a free appropriate public education (“FAPE”) to the student. **Arrow Academy** shall provide comparable services as those described in the IEP the student transferred with until **Arrow Academy** adopts the student’s IEP from the previous school, or develops, adopts, and implements a new IEP. **Arrow Academy** must either adopt the student’s IEP from the previous school district or develop, adopt, and implement a new IEP within 20 school days from the date the student is verified as being a student eligible for special education services.

34 CFR 300.323(e), (g); 19 TAC 89.1055(s)(1).

Out-of-State Transfers

If the student with a disability transfers to **Arrow Academy** from a school district outside of Texas and the parents or previous school district verifies that the student had an IEP that was in effect in the previous district, **Arrow Academy** shall provide the student with FAPE, including comparable services, until **Arrow Academy** conducts an evaluation, if appropriate, and develops, adopts, and implements a new IEP.

If **Arrow Academy** determines that an evaluation is necessary, the evaluation is considered a full individual and initial evaluation and must be completed within the timelines established by 19 TAC 89.1011.

If **Arrow Academy** determines that an evaluation is not necessary, **Arrow Academy** shall develop, adopt, and implement a new IEP within 20 school days from the date the student is verified as being a student eligible for special education services.

34 CFR 300.323(f); 19 TAC 89.1055(s)(2).

Comparable Services Pending Verification

While **Arrow Academy** waits for verification, **Arrow Academy** 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 **Arrow Academy** has been informed by the previous school district of the student's special education and related services and placement.

19 TAC 89.1055(s)(7).

Comparable Services Following Verification

Once **Arrow Academy** receives verification that the student had an IEP in effect at the previous district, **Arrow Academy** shall provide comparable services to the student during the timelines established under subparagraphs (a) and (b) of this Section. Comparable services include provision of Extended School Year ("ESY") services if those services are identified in the previous IEP or if **Arrow Academy** has reason to believe that the student would be eligible for ESY services.

19 TAC 89.1055(s)(8).

Requirements If Unable to Obtain Verification

If a parent hasn't already provided verification of eligibility and the **Arrow Academy** has been unable to obtain the necessary verification records from the previous district by the 15th working day after the date **Arrow Academy** submitted a request for the records to the previous district, **Arrow Academy** shall seek verification from the student's parent. Nothing prohibits **Arrow Academy** from asking the parent to provide verification of eligibility before that date. If the parent is unwilling or unable to provide such verification, **Arrow Academy** shall 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 **Arrow Academy**.

19 TAC 89.1055(s)(5).

STUDENTS WHO TRANSFER WITH AN IEP DURING THE SUMMER

A student with a disability who has an IEP in place from a previous in- or out-of-state school district and who enrolls in a new local educational agency ("LEA") during the summer when students are not in attendance for instructional purposes is not considered a transfer student for the purposes of 34 CFR 300.323(e) or (f) and corresponding state law and/or regulations. The provisions in 19 TAC 89.1055(s)(1) shall apply if the student comes from an in-state school district, and the provisions in 19 TAC 1055(s)(2) shall apply if the student comes from an out-of-state district.

19 TAC 89.1055(s)(7).

PREKINDERGARTEN PROGRAMS

NOTE: Any references in this policy to prekindergarten programs shall only apply to **Arrow Academy** if **Arrow Academy** open-enrollment charter contract issued by the State of Texas authorizes **Arrow Academy** to operate a prekindergarten program.

The education of students with disabilities can be made more effective by providing incentives for whole-school approaches, scientifically-based early reading programs, positive behavioral interventions and supports, and early intervening services to reduce the need to label students as disabled in order to address the learning and behavioral needs of such students.

20 U.S.C. 1400(c)(5)(F).

In implementing coordinated, early intervening services, **Arrow Academy** may carry out activities that include:

- professional development (which may be provided by entities other than local educational agencies) for teachers and other school staff to enable such personnel to deliver scientifically based academic instruction and behavioral interventions, including scientifically based literacy instruction, and, where appropriate, instruction on the use of adaptive and instructional software; and
- providing educational and behavioral evaluations, services, and supports, including scientifically based literacy instruction.

20 U.S.C. 1413(f)(2); 34 CFR 300.226(b).

An early intervention service (including a response-to-intervention or (RTI)) process cannot delay the initial evaluation for special education services of a student suspected of having a disability. A parent may request an evaluation at any time to determine whether the student is a student with a disability. If a parent requests an evaluation and **Arrow Academy** agrees that the student may be eligible for special education, **Arrow Academy** must evaluate the student. If **Arrow Academy** denies the parent's request for evaluation, **Arrow Academy** shall provide notice to the parent explaining the basis for the refusal. The parent may challenge the refusal to evaluate through the impartial hearing process.

20 U.S.C. 1413(f)(3); 34 CFR 300.226(c).

BILINGUAL EDUCATION PROGRAM

Arrow Academy shall identify emergent bilingual students based on state criteria. **Arrow Academy** shall provide an appropriate Bilingual Education (BE) or English as a Second Language (ESL) program conducted by teachers certified for such courses.

Education Code Chapter 29, Subchapter B; 19 TAC 89.1201-1265; Education Code 29.060(a).

Student with Disabilities and Emergent Bilingual Students

Arrow Academy shall ensure that an emergent bilingual student who also qualifies for special education services as a student with a disability under the Individuals with Disabilities Education Act is not refused services in a bilingual education or English as a second language program solely because the student has a disability.

19 TAC 89.1230.

Applicability of Title Relating to Bilingual Education

An open-enrollment charter school is subject to a prohibition, restriction, or requirement, as applicable, imposed by Title 2 (Public Education) of the Texas Education Code, or a rule adopted under Title 2 (Public Education) of the Texas Education Code, relating to bilingual education under Subchapter B (Bilingual Education and Special Language Programs), Chapter 29, Texas Education Code.

Education Code 12.104(b)(2)(G).

Arrow Academy adopts the requirements of Subchapter B (Bilingual Education and Special Language Programs), Chapter 29, Texas Education Code pursuant to Education Code 12.104(b)(2)(G).

Establishment of Bilingual Education and Special Language Program

Arrow Academy shall establish a BE or ESL program as required by Education Code Section 29.053 (Establishment of Bilingual Education and Special Language Programs) and in accordance with the procedures established by the Texas Education Agency ("TEA"), unless otherwise excepted under Education Code 29.054 (Exception).

Language Proficiency Assessment Committees

Arrow Academy shall further establish a Language Proficiency Assessment Committee ("LPAC") that complies with Education Code Section 29.063. The LPAC shall select the appropriate assessment option for each English language learner (ELL) in accordance with this subchapter. For each ELL who receives special education services, the student's admission, review, and dismissal ("ARD") committee in conjunction with the student's LPAC shall select the appropriate assessments. The LPAC shall document the decisions and justifications in the student's permanent record file, and the ARD committee shall document the decisions and justifications in the student's individualized education program. Assessment decisions shall be made on an individual student basis and in accordance with administrative procedures established by the TEA.

19 TAC 101.1005(a).

Program Content; Method of Instruction

Arrow Academy's bilingual education program's content and instruction shall comply with Education Code Section 29.055.

Enrollment of Students in Program

Arrow Academy shall comply with the TEA criteria for identification, assessment, and classification of emergent bilingual students eligible for entry into the program or exit from the program.

Education Code 29.056(a); 19 TAC 89.1226.

The student's parent must approve a student's entry into the program, exit from the program, or placement in the program. The open-enrollment charter school or parent may appeal the decision under Education Code Section 29.064.

Education Code 29.056(a).

Arrow Academy, through its LPAC, shall evaluate and consider reenrollment of students who have transferred out of a bilingual education or special language program under Education Code Section 29.056(h) as required by Education Code Section 29.0561.

Facilities; Classes

Arrow Academy shall ensure that bilingual education and special language programs are located in the regular public charter school rather than in separate facilities.

Education Code 29.057.

Enrollment of Students Who Are Not Emergent Bilingual Students.

Arrow Academy ensures that enrollment of students who do not have limited English proficiency may occur only if the requirements of Education Code Section 29.058 are met.

Education Code 29.058.

Cooperation among Schools

Arrow Academy may cooperate with other schools to provide a bilingual education or special language program.

Education Code 29.059.

Preschool, Summer School, and Extended Time Programs

Each open-enrollment charter school that is required to offer a bilingual education or special language program shall offer a voluntary program for students of limited English proficiency who will be eligible for admission to kindergarten or the first grade at the beginning of the school year. A school that operates on a system permitted by the Texas Education Code other than a semester system shall offer 120 hours of instruction on a schedule the governing board establishes. The program shall meet the requirements of Education Code Section 29.060.

Education Code 29.060(a).

Enrollment of a student in the program is optional with the parent of the student.

Education Code 29.060(b).

The program must be an intensive bilingual education or special language program that meets standards established by the Texas Education Agency. The student/teacher ratio for the program may not exceed 18:1.

Education Code 29.060(c).

Arrow Academy may establish on a full- or part-time basis summer school, extended day, or extended week bilingual education or special language programs for students of limited English proficiency and may join with other schools or schools in establishing the programs.

Education Code 29.060(d).

The programs required or authorized by Education Code Section 29.060 may not be a substitute for programs required to be provided during the regular school year.

Education Code 29.060(e).

The legislature may appropriate money from the foundation school fund for support of a program under Education Code Section 29.060(a).

Education Code 29.060(f).

Bilingual Education and Special Language Program Teachers

Arrow Academy shall ensure that bilingual education and special language program teachers are properly certified.

Education Code 29.061.

Appeals

A parent of a student enrolled in a bilingual education or special language program may appeal to the Commissioner of Education if **Arrow Academy** fails to comply with the requirements established by law or by the TEA. If the parent disagrees with the placement of the student in the program, the parent may appeal that decision to the Board. Appeals shall be conducted in accordance with procedures adopted by the Commissioner of Education under Chapter 157 of the Texas Administrative Code.

Education Code 29.064; 19 TAC 89.1240.

PEIMS REPORTING REQUIREMENTS

Arrow Academy shall meet Public Education Information Management System Reporting Requirements with respect to its bilingual education or special language programs.

Education Code 29.066.

DYSLEXIA AND RELATED DISORDERS

The Board shall ensure that procedures for identifying and providing appropriate instructional services to students for dyslexia and related disorders are implemented by **Arrow Academy**. These procedures shall be implemented in accordance with the most recently updated version of the State Board of Education's *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders* and its subsequent amendments ("the Dyslexia Handbook"). **Arrow Academy** shall further ensure **Arrow Academy** complies with all rules and standards adopted by the State Board of Education to implement the dyslexia program, including the Dyslexia Handbook and guidance published by the commissioner to assist **Arrow Academy** in implementing the program.

Education Code 38.003(b); 19 TAC 74.28(b), (c).

REFERRALS

Anytime a child is suspected to have dyslexia or a related disorder and may need dyslexia intervention services, the LEA must seek parental consent for a Full Individual Initial Evaluation (FIIE) under the Individuals with Disabilities Education Act (IDEA). The process of seeking informed parental consent under the IDEA must include proper prior written notice and be accompanied by the notice of procedural safeguards.

If **Arrow Academy** suspects or has a reason to suspect that a student may have dyslexia, including after evaluation or use of a reading diagnosis under Sections 28.006 or 38.003 of the Education Code, and that the student may be a child with a disability under the IDEA, **Arrow Academy** must:

- Seek parental consent for an FIIE under the IDEA and provide prior written notice and notice of procedural safeguards;
- Provide to the student's parent or a person standing in parental relation to the student a form developed by the Texas Education Agency ("TEA") explaining the rights available under the IDEA that may be additional to the rights available under Section 504 of the Rehabilitation Act of 1973;
- Comply with all federal and state requirements, including the *Dyslexia Handbook*, as adopted by the State Board of Education (SBOE), and its subsequent amendments, regarding any evaluation of the student; and

- If the student is evaluated for dyslexia or a related disorder, also evaluate the student in any other areas in which the district suspects the student may have a disability.

Education Code 29.0031(a).

IDENTIFICATION AND TESTING

A process for early identification, intervention, and support for students at risk for dyslexia and related disorders must be available, as outlined in the *Dyslexia Handbook*. The program must include a screening at the end of each school year for all kindergarten students and by January 31st for first-grade students.

Arrow Academy may not use early intervention strategies, including multi-tiered systems of support, to delay or deny the provision of a full and individual evaluation to a child suspected of having a specific learning disability, including dyslexia or a related disorder.

EVALUATION TEAM AND ARD COMMITTEE

The multidisciplinary evaluation team and any subsequent Admission, Review, and Dismissal (“ARD”) committee convened to determine a student’s eligibility for special education and related services as a child with dyslexia or a related disorder must include at least one member with specific knowledge regarding the reading process, dyslexia and related disorders, and dyslexia instruction. The member must:

- Hold a licensed dyslexia therapist license under Chapter 403, Occupations Code;
- Hold the most advanced dyslexia-related certification issued by an association recognized by the State Board of Education, and identified in, or substantially similar to an association identified in, the program rules adopted under Sections 7.102 and 38.003; or
- If a person qualified under 1 or 2 above is not available, meet the applicable training requirements adopted by the State Board of Education pursuant to Sections 7.102 and 38.003.

The member of a multidisciplinary evaluation team or subsequent ARD committee convened to determine a student’s eligibility for special education and related services as described above must sign a document describing the member’s participation in the evaluation and any resulting Individualized Education Program (“IEP”) developed for the student.

Education Code 29.0031(b), (c); 19 TAC 74.28(h).

PERSONNEL QUALIFICATIONS

Teachers who provide dyslexia intervention for students are not required to hold a specific license or certification. However, these educators must at a minimum have additional documented dyslexia training aligned to 19 TAC 74.28(d) and must deliver the instruction with fidelity.

A provider of dyslexia instruction to students with dyslexia and related disorders must also be fully trained in **Arrow Academy**'s adopted instructional materials for students with dyslexia. The completion of a literacy achievement academy under Section 21.4552 of the Education Code by an educator who participates in the evaluation or instruction of students with dyslexia and related disorders does not satisfy this training requirement.

A provider of dyslexia instruction does not have to hold a certificate or permit in special education issued under Subchapter B, Chapter 21 of the Education Code, unless the provider is employed in a special education position that requires the certification.

Education Code 29.0032; 19 TAC 74.28(a)(5), (d).

TREATMENT AND SERVICES

Arrow Academy shall provide evidence-based dyslexia instruction by a provider of dyslexia instruction, as that term is used in Education Code 29.0032, for students with dyslexia or a related disorder that includes the required instructional and delivery components set forth in the *Dyslexia Handbook*.

19 AC 74.28(d).

Reading Program

Arrow Academy shall purchase or develop an evidence-based reading program for students with dyslexia and related disorders that is aligned with all instructional methods and components for dyslexia instruction as described in the *Dyslexia Handbook*.

Reassessment

Unless otherwise provided by law, a student determined to have dyslexia during testing or accommodated because of dyslexia may not be retested for dyslexia for the purpose of reassessing the student's need for accommodations until **Arrow Academy** reevaluates the information obtained from previous testing of the student.

Education Code 38.003(b-1).

REQUIRED PARENT INFORMATION

Arrow Academy shall provide parents information on:

- characteristics of dyslexia and related disorders;
- evaluation and identification of dyslexia and related disorders;
- effective instructional strategies for teaching students with dyslexia and related disorders;
- qualifications of and contact information for PDIs at each campus or school;
- instructional accommodations and modifications;
- the steps in the special education process, as described in the form developed by the TEA to comply with Education Code 29.0031(a)(1); and
- how to request a copy and access the electronic version of the *Dyslexia Handbook*.

19 TAC 74.28(f).

REPORTING

Arrow Academy must report through the Public Education Information Management System to the TEA:

- the results of the screening for dyslexia and related disorders required for each student in kindergarten and each student in first grade; and
- the number of students enrolled who are identified as having dyslexia.

Education Code 48.009(b)(1); 19 TAC 74.28(e).

PROGRESS REPORTS

At least once each grading period, or more often if provided for in a student's IEP, **Arrow Academy** must provide the parent of or *person* standing in parental relation to a student receiving dyslexia instruction with information regarding the student's progress as a result of receiving that instruction.

Education Code 29.0031(d).

MENTAL HEALTH CONSIDERATIONS

20 U.S.C. § 1412; 21 U.S.C. § 812 Schedules I, II, III, IV and V; 34 C.F.R. Part 300; Texas Education Code; Texas Health and Safety Code

Early Mental Health Intervention and Suicide Prevention

Texas Health and Safety Code § 161.325

The board of trustees of each LEA may adopt a policy concerning early mental health intervention and suicide prevention.

Each LEA may select a program or programs appropriate for implementation from the TEA list of recommended best practice-based early mental health intervention and suicide prevention programs for implementation in public elementary, junior high, middle, and high schools within the general education setting.

Psychotropic Drugs and Psychiatric Evaluations and Examinations

TEC § 38.016(a)(2)(A)(B)(b)(1-3)(c)(1-3); 34 C.F.R. 300.174(a)(b); 21 U.S.C. 812(c) schedule I-IV; 20 U.S.C. 1412(a)(25)(A)

"Psychotropic drug" means a substance that is:

- Used in the diagnosis, treatment, or prevention of a disease or as a component of a medication; and
- Intended to have an alerting effect on perception, emotion, or behavior.

The LEA employee may not:

- Recommend that a student use a psychotropic drug;
- Suggest any particular diagnosis;
- Use the refusal by a parent to consent to administration of psychotropic drug to a student or to a psychiatric evaluation or examination of a student as grounds, by itself, for prohibiting the student from attending a class or participating in a school-related activity; or
- Require a student to obtain a prescription for a substance covered by the Controlled Substances Act as a condition of attending school, receiving an evaluation, or receiving services under IDEA.

The above limitations do not:

- Prevent an appropriate referral for possible special education services.
- Prohibit the LEA employee, who is a registered nurse, advanced nurse practitioner, physician, or certified or appropriately credentialed mental health professional from recommending that a student be evaluated by an appropriate medical practitioner; or
- Prohibit the LEA employee from discussing, consulting, or sharing any aspect of a student's behavior or academic progress, including classroom-based observations, with the student's parents or guardian or another LEA employee regarding a student's academic and functional performance, or behavior in the classroom or school, or regarding the need for evaluation for special education or related services.

REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES

REFERRAL FOR FULL AND INDIVIDUAL INITIAL EVALUATION

Referral of students for a full and individual initial evaluation ("FIIE") for possible special education services and related services shall be a part of **Arrow Academy's** multi-tiered system of academic and behavioral supports. The student's parents or legal guardian, school personnel, or another person involved in the education or care of the student may initiate a referral or request for an FIIE at any time. **Arrow Academy** will continue to provide the student any necessary interventions and support services to target their academic or behavioral needs while an FIIE is being conducted.

19 TAC 89.1011(a).

Obligation to Refer

Students not making progress in the general education classroom in the general classroom should be considered for all interventions and support services available to all students, such as tutorial; compensatory; response to evidence-based intervention; and other academic or behavior support services. **Arrow Academy** cannot require a student to participate in interventions and support services for any specific length of time prior to a referral being made or an FIIE being conducted. If the student continues to experience difficulty in the general education classroom with the provision of interventions and support services or at any time

Arrow Academy personnel suspect a disability and a possible need for special education and related services, **Arrow Academy** personnel must refer the student for an FIIE.

20 U.S.C. 1414(a)(1); 34 CFR 300.301; 19 TAC 89.1011(a).

Parent Request

If a parent submits a written request for an FIIE to **Arrow Academy's** director of special education services or to a **Arrow Academy** administrative employee, such as a campus principal, **Arrow Academy** shall, not later than the 15th school day after the date **Arrow Academy** receives the request:

- Provide the parent with prior written notice of its proposal to conduct an evaluation consistent with 34 CFR 300.503, a copy of the procedural safeguards notice required by 34 CFR 300.504, a copy of the Texas Education Agency's ("TEA") Overview of Special Education for Parents form, and an opportunity to give written consent for the evaluation; or
- Provide the parent with prior written notice of its refusal to conduct an evaluation consistent with 34 CFR 300.503, a copy of the Texas Education Agency's ("TEA") Overview of Special Education for Parents form, and a copy of the procedural safeguards notice required by 34 CFR 300.504.

20 U.S.C. 1414(a)(1); 34 C.F.R. 300.301; 19 TAC 89.1011 (b); Education Code 29.004(c).

District Referral

When **Arrow Academy** initiates a referral for an FIIE, **Arrow Academy** shall provide the parent with prior written notice of its proposal to conduct an evaluation consistent with 34 CFR 300.503, a copy of the procedural safeguards notice required by 34 CFR 300.504, a copy of TEA's Overview of Special Education for Parents form, and an opportunity to give written consent for the evaluation.

19 TAC 89.1011(c).

NOTICE OF RIGHTS

Arrow Academy shall provide written notice to a student's parent or guardian within a reasonable time before proposing or refusing to initiate the identification, evaluation, or educational placement of a student or the provision of a free appropriate public education ("FAPE").

34 CFR 300.8(c)(10)

INITIAL EVALUATION

Arrow Academy shall conduct an FIIE before the initial provision of special education and related services.

20 U.S.C. 1414(a)(1)(A).

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

20 U.S.C. 1414(a)(1)(E).

Consent for Initial Evaluation

Arrow Academy shall make reasonable efforts to obtain informed parental consent before conducting an initial evaluation.

If the parent does not provide consent for an initial evaluation or fails to respond to a request to provide consent, **Arrow Academy** may—but is not required to—pursue the initial evaluation by utilizing due process procedures, except to the extent inconsistent with state law relating to such parental consent.

Parental consent to initial evaluation shall not be construed as consent for placement for special education and related services.

20 U.S.C. 1414(a)(1)(D)(i)(1); 34 CFR 300.300.

Wards of the State

If the child is a ward of the state and is not residing with the child's parent, **Arrow Academy** shall make reasonable efforts to obtain the informed consent from the parent for an initial evaluation, unless:

- **Arrow Academy** cannot discover the whereabouts of the parent, despite reasonable efforts to do so;
- The rights of the parent have been terminated; or
- The rights of the parent to make educational decisions have been subrogated and an individual appointed by a judge to represent the student has given consent for an initial evaluation.

20 U.S.C. 1414(a)(1)(D)(iii); 34 CFR 300.300(a)(2).

NOTIFICATION TO PARENTS REGARDING INTERVENTION STRATEGIES

Each school year, **Arrow Academy** shall notify a parent of each child, other than a child enrolled in a special education program, who receives assistance from the **Arrow Academy** for learning difficulties, including through the use of intervention strategies that **Arrow Academy** provides to the child. The notice must:

- Be provided when the child begins to receive the assistance for that school year;
- Be written in English or, to the extent practicable, the parent's native language; and
- Include:

- A reasonable description of the assistance that may be provided to the child, including any intervention strategies that may be used;
- Information collected regarding any intervention in the base tier of a multi-tiered system of supports that has previously been used with the child;
- An estimate of the duration for which the assistance, including through the use of intervention strategies, will be provided;
- The estimated time frames within which a report on the child’s progress with the assistance, including any intervention strategies used, will be provided to the parent; and
- A copy of a written explanation of the options and requirements for providing assistance to students who have learning difficulties or who need or may need special education. The explanation must state that a parent is entitled at any time to request an evaluation of the parent’s child for special education services or for aids, accommodations, or services under Section 504 of the Rehabilitation Act (“Section 504”).

The notice under this policy may be provided to a child’s parent at a Section 504 meeting.

Education Code 26.0081.

SEC. 5. RIGHT TO INSPECT AND REVIEW EDUCATION RECORDS

A parent is entitled to access to all written records of **Arrow Academy** concerning the parent’s child, including attendance records, test scores, grades, disciplinary records, counseling records, psychological records, applications for admission, health and immunization information, teacher and school counselor evaluations, reports of behavioral patterns, and records relating to assistance provided for learning difficulties, including information collected regarding any intervention strategies used with the child.

Education Code 26.004(b)(1).

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PREKINDERGARTEN PROGRAMS

General Applicability

This policy shall only apply if **Arrow Academy** open-enrollment charter contract issued by the State of Texas authorizes **Arrow Academy** to operate a prekindergarten program. If **Arrow Academy** is not authorized to operate a prekindergarten program, nothing in this policy will require prekindergarten operations.

Tuition-Free Program

Leadership Education Foundation shall offer tuition-free prekindergarten classes if it identifies 15 or more eligible children who are at least four years of age. **Leadership**

Education Foundation may offer tuition-free prekindergarten classes if it identifies 15 or more eligible children who are at least three years of age.

i.Exemption

Leadership Education Foundation may apply to the Commissioner of Education for an exemption from the requirement that it provide a free prekindergarten program if **Leadership Education Foundation** would be required to construct classroom facilities in order to provide the program.

ii.Half-Day Basis

A tuition-free prekindergarten class may be operated on a half-day basis for children under four years of age and shall be operated on a full-day basis for children who are at least four years of age.

iii.Program Eligibility

A child is eligible for enrollment in free prekindergarten if the child is at least three years of age and:

- Is unable to speak and comprehend the English language;
- Is educationally disadvantaged;
- Is homeless, as defined by federal law, regardless of the residence of the child, of either parent of the child, or of the child's guardian or other person having lawful control;
- Is the child of an active duty member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who is ordered to active duty by proper authority;
- Is the child of a member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who was injured or killed while serving on active duty; or
- Is or ever has been in:
 - the conservatorship of the Department of Family and Protective Services following an adversary hearing under Family Code 262.201; or
 - foster care in another state or territory, if the child resides in this state;
- Is the child of a person eligible for the Star of Texas Award as:
 - A peace officer under Section 3106.002, Government Code;
 - A firefighter under Section 3106.003, Government Code; or
 - An emergency medical first responder under Section 3106.004, Government Code.

A child who is eligible for enrollment under items 4 or 5 above remains eligible if the child's parent leaves the armed forces, or is no longer on active duty, after the child begins the prekindergarten class.

iv.Public Notice

The Superintendent shall develop a system to notify the population in the community with children eligible or enrollment of the availability of the program. The system must include public notices issued in English and Spanish.

v. Transportation

Arrow Academy is not required to provide transportation for a prekindergarten class. If transportation is provided, it is included for funding purposes as part of the regular transportation system.

vi. High-Quality Prekindergarten Required

A free prekindergarten class for children who are at least four years of age must comply with the program standards required for high-quality prekindergarten programs under Education Code Chapter 29, Subchapter E-1.

PRESCHOOL-AGED CHILDREN

If **Leadership Education Foundation** offers preschool, **Leadership Education Foundation** must provide a free appropriate public education (“FAPE”) in the least restrictive environment to preschool-aged students even if **Leadership Education Foundation** does not provide free preschool programs to all preschool-aged children.

34 C.F.R. 300.101(a)-(b) and 300.116.

Leadership Education Foundation may provide opportunities for the participation of the preschool students with disabilities in other preschool programs operated by public agencies or by locating classes for preschool students with disabilities in regular elementary schools. However, **Leadership Education Foundation** is not required to initiate preschool programs or to establish extensive contact programs with private schools which serve both students with disabilities and students without disabilities solely to satisfy the requirements regarding placement in the least restrictive environment.

OSEP Policy Memo 89-23; 34 C.F.R. 300.102(a).

Leadership Education Foundation shall develop a system to notify residents within **Leadership Education Foundation’s** boundaries with children who are at least three but younger than six and who are eligible for enrollment in a special education program of the availability of such programs.

Education Code 29.009.

TRANSITION OF CHILDREN FROM PART C

By the third birthday of a child participating in early intervention programs the **Leadership Education Foundation** must ensure that an individualized education program (“IEP”) or an

individualized family service plan (“IFSP”), has been developed and is being implemented for the child.

In the case of a child with a disability aged three through five the ARD committee must consider an IFSP that contains the IFSP content (including the natural environments statement, educational component that promotes school readiness and incorporates pre-literacy, language, and numeracy skills for children with IFSPs under this section who are at least three years of age), and that is developed in accordance with the IEP procedures.

34 CFR 300.323(b).

COMMUNICATION MODE OF DEAF OR HARD OF HEARING CHILD

The comprehensive statewide plan for the education of children with visual impairments must:

- Adequately provide for comprehensive diagnosis and evaluation of each school-age child with a serious visual impairment;
- Include the procedures, format, and content of the IEP for each child with a visual impairment;
- Emphasize providing educational services to children with visual impairments in their home communities whenever possible;
- Include methods to ensure that children with visual impairments receiving special education services in school districts receive, before being placed in a classroom setting or within a reasonable time after placement: (A) evaluation of the impairment; and (B) instruction in an expanded core curriculum, which is required for students with visual impairments to succeed in classroom settings and to derive lasting, practical benefits from the education provided by school districts, including instruction in: (i) compensatory skills, such as braille and concept development, and other skills needed to access the rest of the curriculum; (ii) orientation and mobility; (iii) social interaction skills; (iv) career planning; (v) assistive technology, including optical devices; (vi) independent living skills; (vii) recreation and leisure enjoyment; (viii) self-determination; and (ix) sensory efficiency;
- Provide for flexibility on the part of school districts to meet the special needs of children with visual impairments through: (A) specialty staff and resources provided by the district; (B) contractual arrangements with other qualified public or private agencies; (C) supportive assistance from regional education service centers or adjacent school districts; (D) short-term or long-term services through the Texas School for the Blind and Visually Impaired or related facilities or programs; or (E) other instructional and service arrangements approved by the agency;
- Include a statewide admission, review, and dismissal (“ARD”) process;
- Provide for effective interaction between the visually impaired child's classroom setting and the child's home environment, including providing for parental training and counseling either by school district staff or by representatives of other organizations directly involved in the development and implementation of the IEP for the child;
- Require the continuing education and professional development of school district staff providing special education services to children with visual impairments;

- Provide for adequate monitoring and precise evaluation of special education services provided to children with visual impairments through school districts; and
- Require that school districts providing special education services to children with visual impairments develop procedures for assuring that staff assigned to work with the children have prompt and effective access directly to resources available through: (A) cooperating agencies in the area; (B) the Texas School for the Blind and Visually Impaired; (C) the Central Media Depository for specialized instructional materials and aids made specifically for use by students with visual impairments; (D) sheltered workshops participating in the state program of purchases of blind-made goods and services; and (E) related sources.

Each eligible blind or visually impaired student is entitled to receive educational programs according to an IEP that:

- Is developed in accordance with federal and state requirements for providing special education services;
- Is developed by a committee composed as required by federal law;
- Reflects that the student has been provided a detailed explanation of the various service resources available to the student in the community and throughout the state;
- Provides a detailed description of the arrangements made to provide the student with the evaluation and instruction; and
- Sets forth the plans and arrangements made for contacts with and continuing services to the student beyond regular school hours to ensure the student learns the skills and receives the required instruction.

In the development of the IEP for a student with a visual impairment, proficiency in reading and writing is a significant indicator of the student's satisfactory educational progress.

The IEP for a student with a visual impairment must include instruction in braille and the use of braille unless the student's ARD committee determines and documents that braille is not an appropriate literacy medium for the student.

The ARD committee's determination must be based on an evaluation of the student's appropriate literacy media and literacy skills and the student's current and future instructional needs.

Braille instruction may be used in combination with other special education services appropriate to the student's educational needs and shall be provided by a teacher certified to teach students with visual impairments.

Education Code 30.002.

PARENT

20 U.S.C. §§ 1401, 1415; 42 U.S.C. § 11434; 34 C.F.R. Parts 99, 300; Texas Education Code; 19 TAC Chapter 89

IDENTIFICATION OF PARENT

The term “parent” means:

- A biological or adoptive parent of a child;
- A foster parent of a child who meets the requirements set forth below;
- A guardian (but not the state if the child is a ward of the state);
- An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child’s welfare; or
- An individual assigned to be a surrogate parent.

FOSTER PARENT

A foster parent may act as a parent of a child with a disability, as authorized under 20 U.S.C. 1415(b) and its subsequent amendments, if:

- the Department of Family and Protective Services (“DFPS”) is appointed as the temporary or permanent managing conservator of the child;
- the rights and duties of the department to make decisions regarding education provided to the child under Section 153.371, Family Code, have not been limited by court order; and
- the foster parent agrees to:
 - participate in making special education decisions on the child’s behalf; and
 - complete a training program that complies with minimum standards established by the Texas Education Agency (“TEA”) rule.

Education Code 29.015(a).

A foster parent who will act as a parent of a child with a disability must complete a training program before the next scheduled admission, review, and dismissal (“ARD”) committee meeting for the child but not later than the 90th day after the date the foster parent begins acting as the parent for the purpose of making special education decisions.

Education Code 29.015(b).

Arrow Academy may not require a foster parent to retake a training program to continue serving as a child’s parent or to serve as the surrogate parent for another child if the foster parent has completed a training program to act as a parent of a child with a disability provided by:

- the DFPS;
- a school district;
- an education service center; or
- any other entity that receives federal funds to provide special education training to parents.

A foster parent who is denied the right to act as a parent under Education Code Section 29.015 by an open-enrollment charter school may file a complaint with the TEA in accordance with federal law and regulations.

Education Code 29.015(c).

Arrow Academy shall provide notice to the student's educational decision-maker and caseworker regarding events that may significantly impact the education of a student, including:

- requests or referrals for an evaluation under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), or special education under Education Code Section 29.003;
- ARD committee meetings;
- manifestation determination reviews required by Education Code Section 37.004(b);
- any disciplinary actions under Chapter 37 of the Education Code for which parental notice is required;
- citations issued for Class C misdemeanor offenses on school property or at school-sponsored activities;
- reports of restraint and seclusion required by Education Code Section 37.0021; and
- use of corporal punishment as provided by Education Code Section 37.0011.

Education Code 25.007.

As a condition to receiving funds under Title I, Part A, **Arrow Academy** shall collaborate with the state or local child welfare agency to:

- ensure that children in foster care needing transportation to the school of origin will promptly receive transportation in a cost-effective manner and in accordance with 42 U.S.C. 675(4)(A) and to the extent required by law; and
- ensure that, if there are additional costs incurred in providing transportation to maintain children in foster care in their schools of origin, **Arrow Academy** will, to the extent required by law, provide transportation to the school of origin if:
 - the local child welfare agency agrees to reimburse **Arrow Academy** for the cost of transportation;
 - **Arrow Academy** agrees to pay the cost of transportation; or
 - **Arrow Academy** and the local welfare agency agree to share the cost of such transportation.

20 U.S.C. 6312(c)(5).

SURROGATE PARENT

Arrow Academy must appoint an individual to serve as the surrogate parent for a child if:

- **Arrow Academy** is unable to identify or locate a parent for a child with a disability; or
- the foster parent of a child is unwilling or unable to serve as a parent.

- A surrogate parent appointed by **Arrow Academy** may not:
 - be an employee of the state, **Arrow Academy**, or any other agency involved in the education or care of the child; or
 - have any interest that conflicts with the interests of the child.

A surrogate parent must:

- be willing to serve in that capacity;
- exercise independent judgement in pursuing the child's interests;
- ensure that the child's due process rights under applicable state and federal laws are not violated;
- complete a training program that complies with minimum standards established by agency rule before the next scheduled admission, review, and dismissal committee meeting for the child but not later than the 90th day after the date the surrogate parent is appointed;
- visit the child and the school where the child is enrolled;
- review the child's educational records;
- consult with any person involved in the child's education, including the child's teachers, caseworkers, court-appointed volunteers, guardian ad litem, attorney ad litem, foster parent, and caregiver; and
- attend meetings of the child's admission, review, and dismissal committee.

Arrow Academy may appoint a person who has been appointed to serve as a child's guardian ad litem or as a court-certified volunteer advocate as the child's surrogate parent. As soon as practicable after appointing a surrogate parent **Arrow Academy** shall provide written notice of the appointment to the child's educational decision-maker and caseworker.

If a court appoints a surrogate parent for a child with a disability and the **Arrow Academy** determines that the surrogate parent is failing to perform or is not properly performing the duties listed in this policy, **Arrow Academy** shall consult with the DFPS regarding whether another person should be appointed to serve as the surrogate parent for the child.

ADULT STUDENT

AGE OF MAJORITY – TRANSFER OF RIGHTS

Not later than one year before the 18th birthday of a student with a disability, **Arrow Academy** shall:

- Provide to the student and the student's parents:
 - Written notice regarding the transfer of rights; and

- Information and resources regarding guardianship, alternatives to guardianship, including a supported decision-making agreement under Estates Code, Chapter 1357, and other supports and services that may enable the student to live independently; and
- Ensure that the student’s individualized education program (“IEP”) includes a statement that **Arrow Academy** provided the required notice, information, and resources.

When a student reaches the age of majority (18 years of age), **Arrow Academy** shall provide written notice to the student and the student’s parents of the transfer of parental rights. The notice must include the information required above.

This notice is separate and distinct from the requirement that, beginning at least one year before the student reaches the age of 18, the student’s IEP include a statement regarding transfer of parental rights.

If a student with a disability or the student’s parent requests information regarding guardianship or alternatives to guardianship, **Arrow Academy** shall provide the student or parent information and resources on supported decision-making agreements under Estates Code, Chapter 1357.

A student with a disability who is 18 years of age or older or whose disabilities of minority have been removed for general purposes under Chapter 31, Family Code, shall have the same right to make educational decisions as a student without a disability. All other rights accorded to parents under Chapter 29, Subchapter A of the Education Code or 20 U.S.C. 1415 transfer to the student.

34 CFR 300.520; Education Code 29.017(a), (c), (c-1), (c-2); 19 TAC 89.1049(c).

Full and Individual Evaluation

IDEA EVALUATIONS AND REEVALUATIONS

All evaluations and eligibility determinations shall be made in accordance with the Individuals with Disabilities Education Act (“IDEA”), the Texas Education Code, and their implementing regulations.

FULL AND INDIVIDUAL EVALUATION (FIE)

Arrow Academy shall ensure that upon completion of the administration of such tests and other evaluation materials administered according to the evaluation procedures of the IDEA and preparation of the written report, the admission, review and dismissal (“ARD”) committee determines if the student is a student with a disability under state and federal standards.

Arrow Academy shall conduct a full and individual initial evaluation (“FIE”) prior to providing special education and related services to any student. All students must be evaluated in accordance with the IDEA, the Texas Education Code, and their implementing regulations.

Arrow Academy shall have procedures in place to ensure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of students with disabilities are selected and administered so as to not be racially, culturally, or gender discriminatory. Assessment and procedures shall be provided and administered in the student's native language or most proficient mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so.

34 CFR 300.301; Education Code 29.310.

All implementing assessment procedures must differentiate between language proficiency and handicapping condition. Additionally, placement procedures must ensure that placement in a bilingual education or English as a second language program is not refused solely because the student has a disability.

19 TAC 89.1230.

No single procedure shall be the sole criterion for determining whether a student is a student with a disability or for determining an appropriate education program for a student with a disability. The evaluation must be sufficiently comprehensive to identify all of the student's special education and related services' needs. Each student must be evaluated in all suspected areas of disability.

34 CFR 300.301, 300.304; Education Code 29.310.

All assessments must be administered in accordance with the instructions provided and by a trained and knowledgeable person.

34 CFR 300.301, 300.304.

TIMELINE

If a student's parent provides a written request for an evaluation to the school's director of special education services or to a district administrative employee, **Arrow Academy** shall, within 15 school days, (1) provide the parent with prior written notice of its proposal to conduct an evaluation, a copy of the procedural safeguards, a copy of the Texas Education Agency's ("TEA") Overview of Special Education for Parents form, and an opportunity to give written consent for the evaluation, or (2) provide prior written notice and procedural safeguards if the school is denying the request for evaluation.

Education Code 29.004(c); 19 TAC 89.1011.

A written FIE report must be completed not later than the 45th school day following the date on which **Arrow Academy** receives written consent for the evaluation, signed by the student's parent. If the student is absent three or more days in that time period, the timeline must be extended by the number of days the student was absent.

Education Code 29.004(a).

This time frame shall not apply if:

- A student enrolls in the current school after the relevant time frame has begun and before the previous school made a determination as to whether the student has a disability, but only if the current school is making sufficient progress to ensure a prompt completion of the evaluation and the parent and current school agree to a specific time for completion of the evaluation; or
- The parent repeatedly fails or refuses to produce the student for the evaluation.

34 CFR 300.301(d).

Following the completion of the FIE, the ARD committee must meet within 30 calendar days from the date of completion to review and determine eligibility.

Education Code 29.004.

If the 30th day falls during the summer and school is not in session, the student's ARD committee must meet within not later than the fifteenth (15th) school day of the following school year. If an evaluation report indicates that a student may need extended school year ("ESY") services, however, the ARD committee must meet as expeditiously as possible.

19 TAC 89.1011(g)

If the student is an English language learner, the language proficiency assessment committee (LPAC) must also attend the meeting to determine services.

19 TAC 89.1050(c)(1)(j)

If **Arrow Academy** receives written consent for an FIE from a student's parent at least 35 but less than 45 school days before the last instructional day of the school year, the evaluation must be completed and the written report of the evaluation must be provided to the parent not later than June 30 of that year. The ARD committee must meet by the 15th school day of the following school year to consider the evaluation.

If **Arrow Academy** receives written consent signed by a student's parent less than 35 school days before the last instructional day of the school year or if the school receives the written consent at least 35 but less than 45 school days before the last instructional day of the school year but the student is absent from school during that period on three or more days, the FIE must be completed not later than the 45th school day after receiving consent.

School days do not include days following the last instructional day of the spring term and before the first day of the fall term.

Education Code 29.004.

A copy of the written evaluation report must be provided to the student's parent(s) as soon as possible after its completion but no later than five (5) school days prior to the initial ARD committee meeting. For exceptions concerning this timeline, please see 19 TAC 89.1011(e)(1).

19 TAC 89.1011(e).

SPECIFIC LEARNING DISABILITY EVALUATION

TEA cannot require **Arrow Academy** to use the severe discrepancy between intellectual ability and achievement for determining whether a student has a specific learning disability. TEA must permit the use of a process based on the child's response to scientific, research-based intervention; and may permit the use of other alternative research-based procedures for determining whether a student has a specific learning disability.

34 CFR 300.307.

The evaluation process for specific learning disability includes an observation of the child in the learning environment, including the regular classroom setting, to document academic performance and behavior in the areas of difficulty, and the evaluation must adhere to all applicable requirements set forth in the IDEA, Texas Education Code, and their implementing regulations.

34 CFR 300.310 (a), (c); 19 TAC 89.1040(c)(9).

FUNCTIONAL BEHAVIOR ASSESSMENT (FBA)

A functional behavior assessment ("FBA") may be necessary for a student whose behavior impedes their education or that of others. Prior to completing an FBA, **Arrow Academy** shall get consent from the parent.

34 CFR 300.9; 300.324(a)(2)(i)

If a disciplinary change of placement is proposed but it is determined that the behavior is a manifestation of the child's disability, an FBA must be conducted as required by state and federal law.

34 CFR 300.350(f); TEC 37.004(b-1).

REVIEW OF EXISTING EVALUATION DATA

A Review of Existing Evaluation Data ("REED") is required as part of an initial evaluation, if appropriate, and as part of any reevaluation. The REED must be conducted by the ARD committee members and other qualified professionals, as appropriate. The ARD committee members may conduct the review without a meeting.

The REED must include a review of the following:

- Evaluations and information provided by the parents of the student;
- Current classroom-based, local, or State assessments, and classroom-based observations; and
- Observations by teachers and related services providers.

On the basis of that review, and input from the student's parents, the ARD committee members must identify what additional data, if any, are needed to determine:

- Whether the student is a student with a disability, and the educational needs of the student, or, in case of a reevaluation of a student, whether the student continues to have such a disability and the educational needs of the student;
- Whether the student needs special education and related services, or in the case of a reevaluation of a student, whether the student continues to need special education and related services;
- The present levels of academic achievement and related developmental needs of the student; and
- Whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the IEP of the student and to participate, as appropriate, in the general education curriculum.

Arrow Academy shall administer any assessments or other evaluation measures needed to produce the data identified by the REED in accordance with applicable procedural requirements regarding notice and consent.

If additional data is not needed, the ARD committee must notify the parent of the determination decision and provide information about the parent’s right to request additional assessments to determine student needs and eligibility.

34 CFR 300.305.

Arrow Academy shall conduct a reevaluation of the student if the school determines that the educational or related service needs, including improved academic achievement and functional performance, of the child warrant a reevaluation or if the child’s parent or teacher requests a reevaluation. A reevaluation may not occur more than once per year, unless agreed to by the school and the parent. A reevaluation must occur at least every three years, unless the school and parent agree the evaluation is unnecessary.

34 CFR 300.303.

CHANGE IN ELIGIBILITY

Arrow Academy shall evaluate a student with a disability before determining a student is no longer eligible for special education and related services. An evaluation is not required if a student is no longer eligible due to graduation or exceeding the age eligibility in Texas. **Arrow Academy** shall create a summary of performance and include recommendations on how to assist the student in meeting postsecondary goals.

34 CFR 300.305(e).

CONSIDERATION OF SERVICES PROVIDED IN REGULAR EDUCATION SETTING

To ensure that underachievement in the student suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group of qualified professionals, as part of a full and individual evaluation, must consider:

- Data that demonstrate that prior to, or as part of, the referral process, the student was provided appropriate instruction in regular education settings, delivered by qualified personnel; and
- Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of progress during instruction, which was provided to the student's parents.

34 CFR 300.309(b).

Coordination of Evaluations with Prior and Subsequent Schools

The school shall ensure that evaluations of students who transfer from one local education agency to another in the same academic year are coordinated with the student's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of evaluations.

20 U.S.C. 1414(b)(3)(D).

PSYCHOLOGICAL EXAMINATIONS AND TESTS

On request of a child's parent, before obtaining the parent's consent for the administration of any psychological examination or test to the child as part of the evaluation of the child's need for special education, **Arrow Academy** shall provide to the child's parent:

1. The name and type of the examination or test; and
2. An explanation of how the examination or test will be used to develop an appropriate IEP for the child.

If **Arrow Academy** determines that an additional examination or test is required for the evaluation of a child's need for special education, **Arrow Academy** shall provide the information above to the parent regarding the additional examination or test and shall obtain additional consent for the examination of test.

Education Code 29.0041(a), (b).

If **Arrow Academy** determines that an additional examination or test is required for the evaluation, **Arrow Academy** shall provide the information required by Education Code 29.0041(a) and shall obtain parental consent. If a parent does not give consent within 20 calendar days after the School provides the information, the parent's consent is considered denied.

The time required for **Arrow Academy** to provide information and seek consent may not be counted toward the timeframe for completion of an evaluation.

Education Code 29.0041.

EXTENSION OF TIMELINES

For a specific learning disability, the timelines for evaluation under this policy may be extended by mutual written agreement of the student's parents and the ARD committee.

34 CFR 300.309(c).

EVALUATION CONDUCTED PURSUANT TO A SPECIAL EDUCATION DUE PROCESS HEARING

A special education hearing officer in an impartial due process hearing brought under 20 U.S.C. §1415 may issue an order or decision that authorizes one or more evaluations of a student who is eligible for, or who is suspected as being eligible for, special education services. Such an order or decision authorizes the evaluation of the student without parental consent as if it were a court order for purposes of any State or federal law providing for consent by order of a court.

Education Code 29.016.

INDEPENDENT EDUCATIONAL EVALUATIONS

The parent of a student with a disability has the right to obtain an independent educational evaluation ("IEE") of the parent's child if the parent disagrees with the evaluation of the student that was obtained by **Arrow Academy**.

If the parent requests an IEE, **Arrow Academy** must provide the parent with information about where the parent may obtain an IEE and about **Arrow Academy's** criteria that apply to IEE.

DEFINITIONS

An IEE means an evaluation conducted by a qualified examiner who is not employed by the school responsible for the education of a student.

Public expense means that **Arrow Academy** either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent, consistent with the provisions of Part B of IDEA, which allow each State to use whatever State, local, Federal, and private sources of support are available in the State to meet the requirements of Part B of IDEA.

34 CFR 300.502.

RIGHT TO AN INDEPENDENT EVALUATION AT PUBLIC EXPENSE

The parent has the right to request an IEE of the parent's child at public expense if the parent disagrees with an evaluation of the student completed by **Arrow Academy**.

If the parent requests an IEE, **Arrow Academy** must respond to the parent by either:

- without unnecessary delay, filing a due process complaint to request a hearing to show that its evaluation of the student is appropriate; or

- providing an IEE at public expense, unless **Arrow Academy** demonstrates in a due process hearing that the evaluation of the student that the parent obtained did not meet **Arrow Academy's** criteria.

If **Arrow Academy** requests a hearing and the final decision is that **Arrow Academy's** evaluation of the student is appropriate, the parent still has the right to an IEE, but not at public expense.

If the parent requests an IEE of the student, **Arrow Academy** may ask why the parent objects to the evaluation of the student obtained by **Arrow Academy**; however, **Arrow Academy** may not require an explanation and may not unreasonably delay either providing the IEE of the student at public expense or filing a due process complaint to request a due process hearing to defend **Arrow Academy's** evaluation of the student.

The parent is entitled to only one IEE of the student at public expense each time **Arrow Academy** conducts an evaluation of the student with which the parent disagrees.

34 CFR 300.502.

Parent-Initiated Evaluations

If the parent obtains an IEE of the student at public expense or the parent shares with **Arrow Academy** an evaluation of the student that the parent obtained at private expense:

- **Arrow Academy** must consider the results of the evaluation of the student, if it meets **Arrow Academy's** criteria for IEE, in any decision made with respect to the provision of a free appropriate public education to the student; and
- the parent or **Arrow Academy** may present the evaluation as evidence at a due process hearing regarding the student.

34 CFR 300.502.

Requests for Evaluations by Hearing Officers

If a hearing officer requests an IEE of the student as part of a due process hearing, the cost of the evaluation must be at public expense.

CRITERIA FOR OBTAINING IEE AT PUBLIC EXPENSE

The criteria under which the IEE is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the public agency uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an IEE.

Location

The evaluator conducting an IEE of a child with a disability at public expense must be located within a 100-mile radius of **Arrow Academy**. This will allow the evaluator access to **Arrow Academy** for observation of the student and access to the student's cumulative and special education eligibility folders.

Cost

Parents are free to select whomever they choose to perform the IEE, so long as the examiner meets **Arrow Academy's** criteria. **Arrow Academy** will pay a fee for an IEE that allows a parent to choose from among qualified professionals in the area.

Arrow Academy will not pay unreasonably excessive fees. An unreasonably excessive fee is one which is 20% above the prevailing fees in the area as established by the Medicaid/Medicare Service Provider Manual for the specific test being considered.

Parents will be offered the opportunity to demonstrate to their child's ARD committee that unique circumstances exist which justify an IEE that does not meet **Arrow Academy** criteria outlined in this document.

When evaluators have a sliding scale fee based on parent income, **Arrow Academy** will pay the amount charged to the parent if the evaluator meets **Arrow Academy** criteria or **Arrow Academy** has approved the IEE that does not meet **Arrow Academy** criteria.

In the event a parent pursues an IEE independently or pursues an IEE provider that is not on **Arrow Academy** independent evaluator list, **Arrow Academy** will determine if the evaluator meets **Arrow Academy** criteria prior to authorizing payment or reimbursement. If payment will be authorized, an original billing form and an original written report with original signature must be submitted to **Arrow Academy** prior to payment.

Arrow Academy will deny payment for an IEE conducted by an evaluator who does not meet **Arrow Academy** criteria. **Arrow Academy** will deny payment for an IEE that does not meet TEA criteria for the specific disability identified.

If a hearing officer requests an IEE as part of a hearing on a due process complaint, the cost of the evaluation must be at public expense.

Travel costs for evaluators will not exceed **Arrow Academy** rates for travel as established by state guidelines.

A contract for an IEE between an evaluator and **Arrow Academy** will not exceed one year. All terms will become void after the expiration date of one year.

Evaluator Criteria

The evaluator conducting the IEE must meet **Arrow Academy** criteria and possess comparable credentials to the examiner that conducted the evaluation that is in dispute.

Evaluators must possess current licensure/certification to conduct the evaluation and must provide copies of his or her license or certification with the evaluation, if not previously provided.

Evaluators must comply with all requirements specified in state and federal law, including those outlined in the professional board responsible for providing the license or certification.

Evaluators must meet the examiner qualifications for the tests administered as outlined by the test producer.

The evaluator will have access to the student's cumulative folder and special education folders in gathering information about the student.

The evaluator will have the ability to interview teachers and observe the student in the educational setting.

Prior to conducting the assessment, the evaluator agrees to submit to a national criminal history review and to provide any and all information necessary to secure the national criminal history review, including fingerprints and photographs, or other information required by Education Code 22.0834 concerning Contractor or Contractor's Subcontractors.

The evaluator agrees to conduct a thorough evaluation in the area(s) performed by **Arrow Academy** with which the parent disagrees.

Copies of protocols must be provided to **Arrow Academy**.

The report must comply with all federal and state requirements, including addressing the presence or absence of a disability condition as defined under the IDEA and the Texas Education Code.

The evaluation must be provided to **Arrow Academy** upon completion.

Except for the criteria described above, **Arrow Academy** may not impose conditions or timelines related to obtaining an IEE at public expense.

34 CFR 300.502(e).

STUDENTS WHO TRANSFER

Arrow Academy If a student was in the process of being evaluated for special education eligibility by a school district and enrolls in another school district completed the FIIE, shall ensure that evaluations of children who transfer from one district to another in the same academic year are coordinated with the children's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of evaluations in accordance with 34 CFR 300.301(d)(2) and (e) and 300.304(c)(5).

The timelines set forth in 19 TAC 89.1011(d) and (g) do not apply if:

- The new school district is making sufficient progress to ensure a prompt completion of the evaluation; and
- The parent and the new school district agree to a specific time when the evaluation will be completed.

20 U.S.C. 1414(b)(3)(D); 19 TAC 89.1011(f)

Admission, Review and Dismissal (ARD) Committee

ADMISSION, REVIEW AND DISMISSAL COMMITTEES

Leadership Education Foundation shall establish an admission, review and dismissal (“ARD”) committee for each eligible student with a disability and for each student for whom a full and individual initial evaluation is conducted. The ARD committee shall be the individualized education program (“IEP”) team defined at 34 CFR 300.321.

ARD COMMITTEE RESPONSIBILITIES

The ARD committee and **Arrow Academy** are responsible for:

- Evaluating, reevaluating, and determining eligibility for special education and related services;
- Placement of students with disabilities, including disciplinary changes in placement;
- Development of student IEPs;
- Development and implementation of service plans for students who have been placed by their parents in private schools and who have been designated to receive special education and related services;
- Compliance with the least restrictive environment standard;
- Compliance with state requirements for reading diagnosis and state assessments;
- Development of personal graduation plans;
- Development of accelerated instruction under Education Code 28.0211 and intensive programs of instruction under Education Code 28.0213;
- Evaluation, placement, and coordination of services for students who are deaf, hard of hearing, blind, or visually impaired; and
- Determining eligibility for extracurricular activities, under Education Code 33.081.

34 CFR 300.116(a), 300.321(a); 19 TAC 89.1050(a).

COMMITTEE MEMBERS

Arrow Academy shall ensure that each ARD committee meeting includes:

- the parents, as defined by 34 CFR 300.30, of the student;
- 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;

- not less than one special education teacher of the student, or where appropriate, not less than one special education provider of the student. This person must be appropriately certified or licensed as required by 34 CFR 300.156.
- a representative of the **Arrow Academy** who:
 - is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with disabilities;
 - is knowledgeable about the general education curriculum; and
 - is knowledgeable about the availability of resources of the **Arrow Academy** ;
- an individual who can interpret the instructional implications of evaluation results;
- at the discretion of the parent or the **Arrow Academy**, other individuals who have knowledge or special expertise regarding the student, including related services personnel, as appropriate;
- whenever appropriate, the student with a disability;
- 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;
- a representative from career and technical education (“CTE”), preferably the teacher, when considering initial or continued placement of a student in CTE;
- a professional staff member who is on the language proficiency assessment committee if the student is identified as emergent bilingual;
- If the student is 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;
- If the student is 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;
- If the student is 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;
- If the student is 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 the Texas Education Code 29.0031(b) and 19 Texas Administrative Code 74.28 and The Dyslexia Handbook; and
- Any other member required by state or federal law.
- *19 TAC 89.1050.*

A **Arrow Academy** member of the ARD committee shall not be required to attend an IEP meeting, in whole or in part, if the parent and **Arrow Academy** agree in writing that the attendance is not necessary because the member’s area of the curriculum or related services is not being modified or discussed during the meeting.

A **Arrow Academy** member of the ARD committee may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member’s area of curriculum or related services if the parent, in writing, and **Arrow Academy**

consent to the excusal and the member submits, in writing, to the parent and the ARD committee, input into the development of the IEP before the meeting.

20 U.S.C. 1414(d)(1)(C); 34 CFR 300.321(e).

Dyslexia and Related Disorders

The multidisciplinary evaluation team and any subsequent ARD committee convened to determine a student's eligibility for special education and related services as a child with dyslexia or a related disorder must include at least one member with specific knowledge regarding the reading process, dyslexia and related disorders, and dyslexia instruction. The member must:

- Hold a licensed dyslexia therapist license under Chapter 403, Occupations Code;
- Hold the most advanced dyslexia-related certification issued by an association recognized by the State Board of Education, and identified in, or substantially similar to an association identified in, the program rules adopted under Sections 7.102 and 38.003; or
- If a person qualified under 1 or 2 above is not available, meet the applicable training requirements adopted by the State Board of Education pursuant to Sections 7.102 and 38.003.

The member of a multidisciplinary evaluation team or subsequent ARD committee convened to determine a student's eligibility for special education and related services as described above must sign a document describing the member's participation in the evaluation and any resulting IEP developed for the student.

Education Code 29.0031(b), (c).

PARENTAL INVOLVEMENT

Arrow Academy shall take steps to ensure that one or both of the parents of a student with a disability 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 (the notice shall include all information required by applicable regulation); and
- Scheduling the meeting at a mutually agreed time and place.

Written notice of an ARD committee meeting, as required by 19 TAC 89.1050(d), must be provided in the parent's native language, unless it is clearly not feasible to do so. If the parent's native language is not a written language, **Arrow Academy** must take steps to ensure that the notice is translated orally or by other means to the parent in his or her native language or other mode of communication so that the parent understands the content of the notice.

Arrow Academy shall 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 native language is a language other than English.

34 CFR 300.322(a)–(b); 19 TAC 89.1050.

ALTERNATIVE PARTICIPATION METHODS

If neither parent can attend an ARD committee meeting, **Arrow Academy** must use other methods to ensure parent participation, including individual or conference telephone calls.

20 U.S.C. 1414(f); 34 CFR 300.322(c).

An ARD committee meeting may be conducted without a parent in attendance if **Arrow Academy** is unable to convince the parents that they should attend. In such event, **Arrow Academy** must keep a record of its attempts to arrange a mutually agreed time and place, such as:

- Detailed records of telephone calls made or attempted and the results of those calls;
- Copies of correspondence sent to the parents and any responses received; and
- Detailed records of visits made to the parent’s home or place of employment and the results of those visits.

34 CFR 300.322(d).

ARD COMMITTEE MEETINGS

Arrow Academy shall initiate and conduct ARD committee meetings for the purpose of developing, reviewing, and revising the IEP of a student with a disability. The committee shall review each student’s IEP periodically, and, if appropriate, revise the IEP. A meeting must be held for this purpose at least once a year. The ARD committee must also determine the child’s placement once per year.

If the student has a behavioral intervention plan (“BIP”) as part of the child’s IEP, the ARD committee must review the BIP at least annually and more frequently if appropriate to address the safety of the student, the safety of others, or changes in the child’s circumstances that may impact the child’s behavior in accordance with TEC 29.005(h).

A meeting does not include informal or unscheduled conversations involving **Arrow Academy** personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that **Arrow Academy** personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

20 U.S.C. 1414(d)(4); 34 CFR 300.116(b)(1), 300.324(b), (c)(1); 300.501(b)(3).

Meeting at Parent Request

Upon request of a written request for an ARD committee meeting from a parent, **Arrow Academy** must:

- schedule and convene a meeting; or
- within five school days, provide the parent with written notice explaining why the district refuses to convene a meeting in the parent’s native language, unless it is clearly not feasible to do so. If the parent’s native language is not a written language, **Arrow Academy** must take steps to ensure that the notice is translated orally or by other means to the parent in his or her native language or other mode of communication so that the parent understands the content of the notice.

19 TAC 89.1050(e), (f).

Transfer Students

If a student transfers to **Arrow Academy**, and the student had a previous IEP in place, **Arrow Academy** shall provide the student with a free appropriate public education (“FAPE”), including services comparable to those described in the previous IEP, in consultation with the parents, until:

- In the case of a student who transfers within the state, **Arrow Academy** adopts the previous IEP or develops, adopts, and implements a new IEP.
- In the case of a student who had an IEP in effect in another state, **Arrow Academy** conducts an evaluation, if determined necessary by **Arrow Academy**, and develops, adopts, and implements a new IEP, if appropriate.

20 U.S.C. 1414(d)(2)(C)(i); 34 CFR 300.323(e), (f).

Transfer of Records

Arrow Academy shall take reasonable steps to promptly obtain the child’s records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the child’s previous district.

20 U.S.C. 1414(d)(2)(C)(ii); 34 CFR 300.323(g).

Military Dependents

Arrow Academy shall initially provide comparable services to a military student with disabilities based on his or her current IEP. This does not preclude **Arrow Academy** from performing subsequent evaluations to ensure appropriate placement of the student.

Education Code 162.002 art. V, § C.

ELIGIBILITY DETERMINATIONS

The group of qualified professionals that determines whether a child is a child with a disability and the child’s educational needs is the ARD committee.

Evaluations and eligibility determinations shall adhere to the requirements set forth in the IDEA, the Texas Education Code, and their implementing regulations. For additional information, see PG-6.14 through 6.16.

19 TAC 89.1040(b), 89.1050(a)(5); 34 CFR 300.306(a)(1).

Arrow Academy shall provide a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent.

20 U.S.C. 1414(b)(4)(B); 34 CFR 300.306(a).

The ARD committee must make its decisions regarding a student's initial eligibility determination and, when appropriate, the student's IEP and placement within the timeframes prescribed by state and federal law.

19 TAC 89.1011(d), (e).

INDIVIDUALIZED EDUCATION PROGRAM

Arrow Academy shall develop, review, and revise an IEP for each child with a disability, and **Arrow Academy** shall have an IEP in effect for each child with a disability at the beginning of each school year.

20 U.S.C. 1412(a)(4),(d)(2)(A); 34 CFR 300.320(a).

The term "individualized education program" or "IEP" means a written statement for each child with a disability that includes:

- A statement of the child's present levels of academic achievement and functional performance;
- A statement of measurable annual goals, including academic and functional goals;
- A description of how the child's progress toward the annual goals will be measured and when periodic reports on the progress of the child will be provided;
- A statement of the specific special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child;
- A statement of the program modifications or supports for school personnel that will be provided for the child;
- An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in extracurricular and nonacademic activities;
- The projected dates for initiation of services and modifications and the anticipated frequency, location, and duration of these services and modifications;

- A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on state or system-wide assessments;
- If the ARD committee determines that the child must take an alternative assessment instead of a particular regular state or system-wide assessment, a statement of why the child cannot participate in the regular assessment and why the particular assessment selected is appropriate for the child;
- Beginning not later than the first IEP to be in effect when the child is 16, or younger if determined appropriate by the ARD committee, and updated annually thereafter, a statement of appropriate, measurable postsecondary goals and transition services needed to assist the child in reaching those goals; and
- Beginning not later than one year before the child reaches the age of 17, a statement that the child has been informed of the rights that will transfer to the child upon reaching the age of majority.

20 U.S.C. 1414(d); 34 CFR 300.320; 19 TAC 89.1055.

TRANSLATING IEPs

If the child's parent is unable to speak English, **Arrow Academy** shall:

- Provide the parent with a written or audio-taped copy of the child's IEP translated into Spanish if Spanish is the parent's native language; or
- If the parent's native language is a language other than Spanish, make a good faith effort to provide the parent with a written or audiotaped copy of the child's IEP translated into the parent's native language.

Education Code 29.005(d).

AUTISM

For students with autism/pervasive developmental disorders, the following strategies shall be considered by the ARD committee, based on peer-reviewed, research-based educational programming practices to the extent practicable and, when needed, addressed in the IEP:

- Extended educational programming;
- Daily schedules reflecting minimal unstructured time and active engagement in learning activities;
- In-home training and community-based training or viable alternatives that assist the student with the acquisition of social/behavioral skills;
- Positive behavior support strategies based on relevant information;
- Beginning at any age, futures planning for integrated living, work, community, and educational environments that considers skills necessary to function in current and post-secondary environments;

- Parent/family training and support, provided by qualified personnel with experience in Autism Spectrum Disorders (“ASD”);
- Suitable staff-to-student ratio appropriate to identified activities and as needed to achieve social/behavioral progress based on the child’s developmental and learning level (acquisition, fluency, maintenance, generalization) that encourages work towards individual independence;
- Communication interventions, including language forms and functions that enhance effective communication across settings;
- Social skills supports and strategies based on social skills assessment/curriculum and provided across settings;
- Professional educator/staff support; and
- Teaching strategies based on peer-reviewed, research-based practices for students with ASD.

If the ARD committee determines that services are not needed in one or more of the areas in 1–11 above, the IEP shall include a statement reflecting that decision and the basis upon which the determination was made.

19 TAC 89.1055(g).

VISUAL IMPAIRMENT

Arrow Academy shall adopt written procedures as required in Education Code 30.002(c)(10) for providing special education services to students with visual impairments, if such services are necessary.

19 TAC 89.1075(b).

An IEP for a student with a visual impairment must include instruction in braille unless the student’s ARD committee determines and documents that braille is not an appropriate literacy medium for the student, based on an evaluation of the student’s appropriate literacy media and literacy skills and the student’s current and future instructional needs.

Education Code 30.002.

STUDENTS WHO ARE DEAF OR HARD OF HEARING

Arrow Academy must develop an IEP for students who are deaf or hard of hearing in which the students have an education in which their unique communication mode is respected, used, and developed to an appropriate level of proficiency.

Education Code 29.303.

COLLABORATIVE PROCESS

All members of the ARD committee shall have the opportunity to participate in a collaborative manner in developing the IEP. Decisions concerning the required elements of the IEP shall be

made by agreement of the required members, if possible. The ARD committee may agree to an annual IEP or an IEP of shorter duration.

Recess

When agreement about all required elements of the IEP is not achieved, the parent or adult student who disagrees shall be offered a single opportunity to have the ARD committee recess for a period not to exceed ten school days. This recess is not required when:

- The student's presence on campus represents a danger of physical harm to the student or others;
- The student has committed an expellable offense; or
- The student has committed an offense that may lead to placement in a disciplinary alternative education program.

These requirements do not prohibit the members of the ARD committee from recessing an ARD committee meeting for reasons other than failure of the parents and **Arrow Academy** to reach agreement about all required elements of an IEP.

During the recess, the ARD committee members shall consider alternatives, gather additional data, prepare further documentation, and/or obtain additional resource persons to enable the ARD committee to reach agreement.

The date, time, and place for continuing the ARD committee meeting shall be determined by agreement before the recess.

19 TAC 89.1050(g).

When an ARD committee agrees to recess and reconvene due to a lack of mutual agreement about one or more required IEP elements, the parent or **Arrow Academy** may request an independent facilitator from the Texas Education Agency in accordance with 19 TAC 89.1197 and TEC 29.020.

No Agreement Reached

If, after the ten-day recess, the ARD committee still cannot reach agreement, **Arrow Academy** shall implement the IEP that it has determined to be appropriate for the student. A written statement of the basis for the disagreement shall be included in the IEP. Each ARD committee member who disagrees with the IEP is entitled to include a statement of disagreement in the IEP.

TEC 29.005(c); 19 TAC 89.1050(g).

When **Arrow Academy** implements an IEP with which the parents or an adult student disagree, it shall provide prior written notice in compliance with applicable regulations and **Arrow Academy** policy.

19 TAC 89.1050.

IEP MODIFICATION

After a student's annual ARD committee meeting, changes to an IEP may be made either by the entire ARD committee or by amending the IEP by agreement, rather than redrafting the entire IEP.

To do so, the parent and **Arrow Academy** must agree to not convene an ARD committee meeting to amend the IEP and **Arrow Academy** must develop a written document to amend or modify the IEP. Upon request, a parent shall be provided with a revised copy of the IEP with amendments incorporated. Decisions regarding eligibility, changes of placement, and manifestation determination reviews may not be conducted through the amendment process.

34 CFR 300.324(a)(4),(6).

To the extent possible, **Arrow Academy** shall encourage the consolidation of reevaluation meetings for the child and other ARD committee meetings for the child.

20 U.S.C. 1414(d)(3)(D)–(F); 34 CFR 300.324(a)(4)–(a)(6).

LEAST RESTRICTIVE ENVIRONMENT

Arrow Academy shall ensure that, to the maximum extent possible, children with disabilities shall be educated with children who are not disabled. Special classes, special schooling, or other removal of children with disabilities from the regular educational environment shall occur only when the nature or severity of the child's disability is such that education in regular classes with the use of supplementary aids and services cannot be satisfactorily achieved.

20 U.S.C. 1412(a)(5); 34 CFR 300.114(a)(2).

EXTENDED SCHOOL YEAR SERVICES

Arrow Academy shall ensure that ESY services are available as necessary to provide a student with a disability with a FAPE. ESY services must be provided only if the ARD committee determines, on an individual basis, that the services are necessary for a FAPE. **Arrow Academy** may not limit ESY services to particular categories of disability or unilaterally limit the type, amount, or duration of ESY services.

34 CFR 300.106; 19 TAC 89.1065.

GRADUATION

For information concerning graduation, please refer to PG-6.22.

STATE ASSESSMENTS

The TEA shall develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to each student in a special education program for whom a state assessment instrument adopted under Education Code 39.023(a), even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's ARD committee, including assessment instruments approved by

the Commissioner that measures growth. The assessment instruments developed or adopted, including the assessment instruments approved by the Commissioner, must, to the extent allowed under federal law, provide a district with options for the assessment of students.

The TEA may not adopt a performance standard that indicates that a student's performance on the alternate assessment does not meet standards if the lowest level of the assessment accurately represents the student's developmental level as determined by the student's ARD committee.

The student's ARD committee shall determine whether any allowable modification is necessary in administering to the student a required end-of-course ("EOC") assessment instrument under Education Code 39.023(c), and whether the student is required to achieve satisfactory performance on an EOC assessment instrument to receive a high school diploma.

TRANSPORTATION

Arrow Academy shall provide special transportation with federal funds only when the ARD committee determines that the condition of the student warrants the service in order for the student to receive the special education and related services (if any) set forth in the IEP.

19 TAC 89.1096(e).

TRANSITION SERVICES

Definitions

"Transition services" means a coordinated set of activities for a child with a disability that:

- Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child to facilitate the child's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.
- Is based on the individual child's needs, taking into account the child's strengths, preferences, and interests; and includes:
 - Instruction;
 - Related services;
 - Community experiences;
 - The development of employment and other post-school adult living objectives; and
 - If appropriate, acquisition of daily living skills and provision of a functional vocational evaluation.

20 U.S.C. 1401(34); 34 CFR 300.43.

Individual Transition Planning

Not later than the first IEP to be in effect when the student turns 14 years of age, and at least annually thereafter, the ARD committee must consider and, if appropriate, address the following IEP:

- appropriate student involvement in the student's transition to life outside the public school system;
- appropriate involvement in the student's transition by the student's parents and other persons invited to participate by:
 - the student's parents; or
 - the LEA in which the student is enrolled;
- appropriate postsecondary education options, including preparation for postsecondary-level coursework;
- an appropriate functional vocational evaluation;
- 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
- the use and availability of appropriate:
 - supplementary aids, services, curricula, and other opportunities to assist the student in developing decision-making skills; and
 - supports and services to foster the student's independence and self-determination, including a supported decision-making agreement under Texas Estates Code, Chapter 1357.

19 TAC 89.1055(k), (o).

In accordance with 34 CFR 300.320(b), 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, and at least annually thereafter, the IEP must include:

- appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and
- the transition services, including courses of study, needed to assist the student in reaching the postsecondary goals.

20 U.S.C. 1414(d)(1)(A)(i)(VIII), 1414(d)(6); 34 CFR 300.320(b); Education Code 29.011(a)(6), (8); 19 TAC 89.1055(l),(m), (o).

Beginning not later than the first IEP to be in effect when the student turns 18 years of age, and at least annually thereafter, the ARD committee must consider and, if appropriate, address the following issues in the student's IEP:

- involvement in the student's transition and future by the student's parents and other persons, if the parent or other person:

- is invited to participate by the student or the school district in which the student is enrolled; or
- has the student's consent to participate pursuant to a supported decision-making agreement under Texas Estates Code, Chapter 1357; and
- 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.

19 TAC 89.1055(n), (o).

Arrow Academy shall post the transition and employment guide on the **Arrow Academy** website if **Arrow Academy** maintains a website; provide written information and, if necessary, assistance to a student or parent regarding how to access the electronic version of the guide at: (A) the first meeting of the student's ARD committee at which transition is discussed; and (B) the first committee meeting at which transition is discussed that occurs after the date on which the guide is updated. Upon request, **Arrow Academy** shall provide a printed copy of the guide to a student or parent.

Education Code 29.0112.

Driving with Disability Program Information

Arrow Academy may provide information pertaining to the Texas Driving with Disability Program along with transition planning materials. For additional information, see PG-6.30.

Tex. Educ. Code 29.0113.

Graduation – See PG-6.22.

BEHAVIOR IMPROVEMENT PLANS/BEHAVIOR INTERVENTION PLANS

The ARD committee may determine that a behavior improvement plan or a behavioral intervention plan ("BIP") is appropriate for a student with an IEP. If deemed appropriate, the BIP shall be included as part of the student's IEP and provided to each teacher with responsibility for educating the student.

If a BIP 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:

- changes in a student's circumstances that may impact the student's behavior, such as:
 - the placement of the student in a different educational setting;
 - an increase or persistence in disciplinary actions taken regarding the student for similar types of behavioral incidents;
 - a pattern of unexcused absences; or
 - an unauthorized unsupervised departure from an educational setting; or
- the safety of the student or others.

Education Code 29.005(g), (h).

SUPPLEMENTAL SPECIAL EDUCATION SERVICES PROGRAM/PARENT-DIRECTED SPECIAL EDUCATION SERVICES (PDES)

The Texas Education Agency (“TEA”) shall administer the Supplemental Special Education Services Program under Chapter 29, Education Code, Subchapter A-1 (“SSES Program” or “SSES”) as under the name Parent-Directed Special Education Services (“the PDES Program” or “PDES”). Any reference to the SSES Program, supplemental special education services, supplemental special education instructional materials, or SSES is to be considered synonymous with the PDES Program. The PDES Program provides a \$1,500 grant to parents and guardians of eligible students, so long as funds are available, for use in the purchasing of materials and services through the curated marketplace of educational goods and services.

19 TAC 102.1601.

ARD Committee Duties

For a student who has been approved to participate in the PDES Program, the ARD committee shall provide the student’s parent:

- Information regarding the types of supplemental special education services available under the SSES Program and provided by TEA-approved providers for which an account maintained under Education Code 29.042(b) may be used; and
- Instructions regarding accessing the SSES Program account.

Education Code 29.048(b).

ARD Committee Prohibited Considerations

The ARD committee shall not consider a student’s current or anticipated eligibility for any materials or services that may be provided under the PDES Program when developing or revising the student’s IEP, when determining a student’s educational setting, or in the provision of a free and appropriate public education.

Education Code 29.048(a); 19 TAC 102.1601(k).

ELIGIBILITY CRITERIA

A student that is at least three years old but not more than 21 years of age may be eligible for special education and related services if the student is found to have a disability in one of the following categories, and, by reason of the disability, has need for special education and related services:

1. Autism
2. Deaf-blindness
3. Deaf or hard of hearing
4. Emotional disability
5. Intellectual disability
6. Multiple disabilities

7. Orthopedic impairment
8. Other health impairment
9. Specific learning disability
10. Speech impairment
11. Traumatic brain injury
12. Visual impairment
13. Noncategorical/developmental delay

34 CFR 300.306(a)(5), 300.8; 19 TAC 89.1040(a).

Additionally, a student is eligible to participate in **Arrow Academy**'s special education program if the student is not more than 21 years of age and has a visual or auditory impairment that prevents the student from being adequately or safely educated in public school without the provision of special services.

Education Code 29.003.

DETERMINING ELIGIBILITY

Following the completion of the full and individual initial evaluation, the student's admission, review, and dismissal ("ARD") committee must make an eligibility determination. The ARD committee members reviewing evaluations and data to determine eligibility must include a licensed specialist in school psychology ("LSSP"), an educational diagnostician, or other appropriately certified or licensed practitioner with experience, and a licensed or certified professional for a specific eligibility category defined below.

19 TAC 89.1040(b).

When interpreting evaluation data for the purpose of determining if a student is a student with a disability under 34 CFR 300.8 and the educational needs of the student, **Arrow Academy** shall:

- Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior; and
- Ensure that information obtained from all of these sources is documented and carefully considered.

If a student is determined to be a student with a disability and needs special education and related services, the ARD committee must develop an individualized education program ("IEP") for the student in accordance with 34 CFR 300.320 through 300.324 and corresponding state law.

34 CFR 300.306.

A student must not be determined to be a child with a disability if:

- The determinant factor for that determination is:

- lack of appropriate instruction in reading, including in the essential components of reading instruction;
- lack of appropriate instruction in math; or
- limited English proficiency/status as an emergent bilingual student; or
- The child does not otherwise meet the eligibility criteria and 34 CFR 300.8(a).

34 CFR 300.306(b).

For children aged three through nine, or any subset of that age range, may be a child with a disability if the student is:

- experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: Physical development, cognitive development, communication development, social or emotional development, or adaptive development; and
- needs special education and related services.

34 CFR 300.8(b).

AUTISM

A student with autism is one that meets the criteria outlined in 34 CFR 300.8(c)(1) of the IDEA.

19 TAC 89.1040(c)(1).

Under IDEA, autism is a developmental disability significantly affecting a student's verbal and nonverbal communication and social interactions that adversely affects a student's educational performance. Engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences are often associated with autism. Characteristics of autism are generally evident before age three. A child who manifests the characteristics of autism after age three could be identified as having autism if the student meets the above criteria also defined in 34 CFR 300.8(c)(1)(i).

A student does not meet the eligibility category for autism if a student's educational performance is adversely affected primarily because the student has an emotional disturbance, as defined above and in 34 CFR 300.8(c)(4).

34 CFR 300.8(c)(1).

The determination of whether a student meets the criteria for autism as stated in 34 CFR 300.8(c)(1) cannot require that the student meets the requirements for a medical/psychological diagnosis of autism. The absence of other characteristics often associated with autism listed in 34 CFR 300.8(c)(1) does not exclude a student from meeting eligibility as a student with autism.

The written evaluation determining eligibility under autism must include specific recommendations for communication, social interaction, and behavior interventions and strategies.

19 TAC 89.1040(c)(1).

DEAF-BLINDNESS

A student is eligible under deaf-blindness if identified with hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for students with deafness or students with blindness.

34 CFR 300.8(c)(2).

In addition to the Individuals with Disabilities Education Act (“IDEA”) requirements, a student may be eligible if a student is found to:

- meet the eligibility criteria for auditory impairment specified in subsection 19 TAC 89.1040(c)(3) and visual impairment specified in subsection 19 TAC 89.1040 (c)(12);
- meet the eligibility criteria for a student with a visual impairment and has a suspected hearing loss that cannot be demonstrated conclusively, but a speech/language therapist, a certified speech and language therapist, or a licensed speech language pathologist indicates there is no speech at an age when speech would normally be expected;
- have documented hearing and visual losses that, if considered individually, may not meet the requirements for auditory impairment or visual impairment, but the combination of such losses adversely affects the student's educational performance; or
- have a documented medical diagnosis of a progressive medical condition that will result in concomitant hearing and visual losses that, without the provision of special education services, will adversely affect the student's educational performance.

19 TAC 89.1040(c)(2).

DEAF OR HARD OF HEARING

A student who is deaf or hard of hearing is one who has been determined to meet the criteria for deafness as stated in 34 CFR 300.8(c)(3), or for students who have a hearing impairment, as stated in 34 CFR 300.8(c)(5).

The student's evaluation an audiological evaluation by a licensed audiologist and a communication assessment completed by the multidisciplinary team. The evaluation must include a description of the implications of the hearing loss for the student's hearing in a variety of circumstances with or without recommended hearing assistive technology.

A child under three years of age meets the criteria for deaf or hard of hearing if the student's record indicates that the child is experiencing a developmental delay because of hearing loss or impairment, or the child has a physical or mental condition that has a high probability of resulting in a developmental delay and a sensory impairment, in accordance with 34 CFR 303.21.

34 CFR 300.8(c)(3),(5); 19 TAC 89.1040(c)(3).

EMOTIONAL DISABILITY

A student with an emotional disability is one who has been determined to meet the criteria for emotional disturbance as stated in 34 CFR 300.8(c)(4). The term emotional disability is synonymous with the term emotional disturbance and serious emotional disturbance, as these terms are used in federal or state law pertaining to students eligible for special education and related services.

A student may be eligible for services as a student with an emotional disability if they exhibit one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:

- An inability to learn that cannot be explained by intellectual, sensory, or health factors;
- An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
- Inappropriate types of behavior or feelings under normal circumstances;
- A general pervasive mood of unhappiness or depression; or
- A tendency to develop physical symptoms or fears associated with personal or school problems.

Emotional disability includes schizophrenia, but does not include children who are socially maladjusted, unless it is determined that they have an emotional disability. A written evaluation must include specific recommendations for positive behavioral supports and interventions.

34 CFR 300.8(c)(4); 19 TAC 89.1040(c)(4).

INTELLECTUAL DISABILITY

A student qualifies as a student with an intellectual disability if the student has significantly sub-average general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a student's educational performance.

34 CFR 300.8(c)(6); 19 TAC 89.1040(c)(5).

MULTIPLE DISABILITY

A student may qualify as a student with multiple disabilities if they are identified to have a combination of impairments (such as intellectual disability-blindness or intellectual disability-orthopedic impairment) and the combination causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities does not include deaf-blindness.

34 CFR 300.8(c)(7).

The impairments must be: (a) expected to continue indefinitely; and (b) severely limit performance in two or more of the following:

- psychomotor skills;
- self-care skills;
- communication;
- social and emotional development, or
- cognition.

A student who qualifies for more than one impairment, but does not severely impair performance in one of the above categories, or is not expected to continue indefinitely, does not qualify as a student with multiple disabilities.

19 TAC 89.1040(c)(6).

ORTHOPEDIC IMPAIRMENT

A severe orthopedic impairment, including impairments caused by congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures). If the impairment adversely impacts a student's educational performance, the student is eligible under this category.

34 CFR 300.8(c)(8); 19 TAC 89.1040(c)(7).

A student's eligibility based on an orthopedic impairment must include a medical diagnosis provided by a licensed physician.

19 TAC 89.1040(c)(7).

OTHER HEALTH IMPAIRMENT ("OHI")

A student with OHI is one who has been determined to meet the criteria for OHI due to chronic or acute health problems.

19 TAC 89.1040(c)(8).

OHI means having limited strength, vitality, or alertness that adversely affects a child's educational performance.

34 CFR 300.8(c)(9)(i).

The term "health problems" includes:

- Asthma;
- Attention Deficit Disorder or Attention Deficit Hyperactivity Disorder;
- Diabetes;
- Epilepsy;
- Heart Condition;
- Hemophilia;
- Lead poisoning;
- Leukemia;

- Nephritis;
- Rheumatic Fever;
- Sickle Cell Anemia; or
- Tourette Syndrome.

19 TAC 89.1040(c)(8); 34 CFR 300.(c)(9)(i).

“Limited alertness” includes a heightened alertness to environmental stimuli that results in limited alertness with respect to the educational environment.

34 CFR 300.8(c)(9).

A student’s eligibility based on other health impairment must include identification or confirmation of the student’s chronic or acute health problem provided by a licensed physician, physician assistant, or an advanced practice registered nurse with authority delegated under Texas Occupations Code, Chapter 157.

19 TAC 89.1040(c)(8).

SPECIFIC LEARNING DISABILITY

Specific learning disability (or “SLD”) means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations.

SLD includes conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia.

A specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of intellectual disability, of emotional disability, or of environmental, cultural, or economic disadvantage.

34 CFR 300.8(c)(10); 19 TAC 89.1040(c)(9).

A student with a specific learning disability is one who:

- Has been determined through a variety of assessment tools and strategies, in accordance with 34 CFR 300.307-300.111, to have a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations;
- when provided with learning experiences and instruction appropriate for the student's age or state-approved grade-level standards as indicated by performance on multiple measures such as in-class tests, grade average over time (e.g. six weeks or semester), repeated performance on progress monitoring measures, norm- or criterion-referenced

tests, and statewide assessments, does not achieve adequately for the student's age or to meet state-approved grade-level standards in one or more of the following areas:

- mathematical calculations;
 - oral expression;
 - listening comprehension;
 - written expression, which may include dysgraphia;
 - basic reading skill, which may include dyslexia;
 - reading fluency skills, which may include dyslexia;
 - reading comprehension;
 - mathematics calculation; or
 - mathematics problem solving;
- meets one of the following criteria:
 - does not make sufficient progress to meet age or state-approved grade-level standards in one or more of the areas identified in subparagraph 2(a)-(i) when using a process based on the student's response to scientific, research-based intervention; or
 - exhibits a pattern of strengths and weaknesses in performance, achievement, or both relative to age, state-approved grade-level standards, or intellectual development that is determined to be relevant to the identification of a specific learning disability, using appropriate assessments, consistent with 34 CFR 300.304 and 300.305; and
 - does not meet the findings set forth in subparagraphs 1-3 primarily as the result of:
 - a visual, hearing, or motor disability;
 - an intellectual disability;
 - emotional disability;
 - cultural factors;
 - environmental or economic disadvantage; or
 - being emergent bilingual.

The presence of a significant variance among specific areas of cognitive function or between specific areas of cognitive function and academic achievement is not required when determining whether a student has a significant learning disability.

Arrow Academy's evaluation must also show that the student:

- does not make sufficient progress when provided a process based on the student's response to scientific, research-based intervention (as defined in 20 USC, §7801(37)), as indicated by the student's performance relative to the performance of the student's peers on repeated, curriculum-based assessments of achievement at reasonable intervals, reflecting student progress during classroom instruction; or
- the student exhibits a pattern of strengths and weaknesses in performance, achievement, or both relative to age, state-approved grade-level standards, or

intellectual development that is determined to be relevant to the identification of a specific learning disability, using appropriate assessments, consistent with 34 CFR 300.304 and 300.305.

Arrow Academy must ensure that underachievement by a student suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or mathematics. To do so, **Arrow Academy** shall consider:

- data that demonstrates the student was provided appropriate instruction in reading (as described in 20 United States Code 6368(3)), and/or mathematics within general education settings delivered by qualified personnel; and
- data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal evaluation of student progress during instruction, which must be provided to the student's parents. Data-based documentation of repeated assessments may include, but is not limited to, intervention progress monitoring results and reports, in-class tests on grade-level curriculum, or other regularly administered assessments. Intervals are considered reasonable if consistent with the assessment requirements of a student's specific instructional program.

Arrow Academy shall also ensure that the student is observed in the student's learning environment, including the general education classroom setting, to document the student's academic performance and behavior in the areas of difficulty.

In determining whether a student has a specific learning disability, the multidisciplinary team shall decide to either:

- use information from an observation in routine classroom instruction and monitoring of the student's performance that was conducted before the student was referred for an evaluation; or
- have at least one of the members described in 19 TAC 89.1040(b) or 89.1040(c)(9)(F) conduct an observation of the student's academic performance in the general education classroom after the student has been referred for an evaluation and **Arrow Academy** has obtained parental consent consistent with 34 CFR, 300.300(a).

In the case of a student of less than school age or out of school, a member described in 19 TAC 89.1040(b) or 89.1040(c)(9)(F) must observe the student in an environment appropriate for a student of that age.

The determination of whether a student suspected of having a specific learning disability is a child with a disability as defined in 34 CFR 300.8, must be made by the student's parents and a team of qualified professionals, which must include at least one person qualified to conduct individual diagnostic examinations of children such as a licensed specialist in school psychology/school psychologist, an educational diagnostician, a speech-language pathologist, or a remedial reading teacher and one of the following:

- the student's general education teacher;
- if the student does not have a general education teacher, a general education classroom teacher qualified to teach a student of his or her age; or

- for a student of less than school age, an individual qualified by the Texas Education Agency to teach a student of his or her age.

19 TAC 89.1040(c)(9).

For more information concerning SLD as it relates to dyslexia and related disorders, see PG.-2.27.

SPEECH IMPAIRMENT

A communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance. The evaluation team shall include a certified speech and hearing therapist, a certified speech and language therapist, or a licensed speech/language pathologist.

34 CFR 300.8(c)(11); 19 TAC 89.1040(c)(10).

TRAUMATIC BRAIN INJURY

An acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a student's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

A student's eligibility based on a traumatic brain injury must include a medical diagnosis provided by a licensed physician.

34 CFR 300.8(c)(12); 19 TAC 89.1040(c)(11).

VISUAL IMPAIRMENT

A child with a visual impairment is one who has been determined to meet the criterion for visual impairment.

The term "visual impairment including blindness" means an impairment in vision that, even with correction, adversely affects the student's educational performance, and includes both partial sight and blindness.

A child under three years of age meets the criteria for visual impairment if the child's record indicates that the child is experiencing a developmental delay because of vision loss or impairment, or the child has a physical or mental condition that has a high probability of resulting in a developmental delay and a sensory impairment, in accordance with 34 CFR 303.21.

34 CFR 300.8(c)(13); 19 TAC 89.1040(c)(12).

Evaluation, eligibility, and ARD committee requirements shall adhere to federal and state law.

A person who is appropriately certified as an orientation and mobility specialist must participate in an initial eligibility determination and any reevaluation as part of the multidisciplinary team, in accordance with 34 CFR 300.122 and 300.303-300.311, in evaluating data used to make the determination of the student's need for specially designed instruction.

Information from a variety of sources must be considered by the multidisciplinary team that collects or reviews evaluation data in connection with the determination of a student's eligibility based on visual impairment in order to determine the need for specially designed instruction as stated in 34 CFR 300.39(b)(3), and must include:

- a medical report by a licensed ophthalmologist or optometrist that indicates the visual loss stated in exact measures of visual field and corrected visual acuity, at a distance and at near range, in each eye. If exact measures cannot be obtained, the eye specialist must so state and provide best estimates. The report should also include a diagnosis and prognosis whenever possible and whether the student has:
 - no vision or visual loss after correction; or
 - a progressive medical condition that will result in no vision or a visual loss after correction;
- a functional vision evaluation by a certified teacher of students with visual impairments or a certified orientation and mobility specialist. The evaluation must include the performance of tasks in a variety of environments requiring the use of both near and distance vision and recommendations concerning the need for a clinical low vision evaluation;
- a learning media assessment by a certified teacher of students with visual impairments. The learning media assessment must include recommendations concerning which specific visual, tactual, and/or auditory learning media are appropriate for the student and whether or not there is a need for ongoing evaluation in this area; and
- as part of the full individual and initial evaluation, an orientation and mobility evaluation conducted by a person who is appropriately certified as an orientation and mobility specialist. The orientation and mobility evaluation must be conducted in a variety of lighting conditions and in a variety of settings, including in the student's home, school, and community, and in settings unfamiliar to the student.

34 CFR 300.8(c)(13); Education Code 30.002(c-1); 19 TAC 89.1040(c)(12).

DEVELOPMENTAL DELAY

Arrow Academy is not required to use the eligibility category of developmental delay; however, if **Arrow Academy** chooses to use this eligibility category, the definition and criteria set forth in this paragraph shall apply.

A student with developmental delay is one who is between the ages of 3-9 who is evaluated by a multidisciplinary team for at least one disability category listed in Sections 3-14 of this

Policy and whose evaluation data indicates a need for special education and related services and shows evidence of, but does not clearly confirm, the presence of the suspected disability or disabilities due to the child's young age.

In these cases, an ARD committee may determine that data supports identification of developmental delay in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development.

To use this eligibility category, multiple sources of data must converge to indicate the student has a developmental delay as described by one of the following:

- performance on appropriate norm-referenced measures, including developmental measures, indicate that the student is at least 2 standard deviations below the mean or at the 2nd percentile of performance, when taking into account the standard error of measurement (SEM), in one area of development as listed in this Section, along with additional convergent evidence such as interviews and observation data that supports the delay in that area;
- performance on appropriate norm-referenced measures, including developmental measures, indicate that the student is at least 1.5 standard deviations below the mean or at the 7th percentile of performance, when taking into account the SEM, in at least two areas of development as listed in this Section, along with additional convergent evidence such as interviews and observation data that supports the delays in those areas; or
- a body of evidence from multiple direct and indirect sources, such as play-based assessments, information from the student's parent, interviews, observations, work samples, checklists, and other informal and formal measures of development, that clearly document a history and pattern of atypical development that is significantly impeding the student's performance and progress across settings when compared to age-appropriate expectations and developmental milestones in one or more areas of development as listed in this Section.

19 TAC 89.1040(c)(13), (d).

NONCATEGORICAL

A student between the ages of 3-5 who is evaluated as having an intellectual disability, an emotional disturbance, a specific learning disability, or autism may be described as noncategorical early childhood.

Beginning with the 2025-2026 school year, **Arrow Academy** shall no longer use the eligibility category of "noncategorical." Any eligible student who begins the 2025-2026 school year already identified as noncategorical may maintain that eligibility category, if determined appropriate by the student's ARD committee, until the required re-evaluation before the age of six.

19 TAC 89.1040(c)(14), (d)).

TRANSITION SERVICES

20 U.S.C. §§ 1401, 1414; 34 C.F.R. Part 300; Texas Education Code; 19 TAC Chapter 89

Appropriate transition planning under state law must begin not later than when the child reaches fourteen (14) years of age.

Beginning not later than the first (1st) IEP to be in effect when the child turns fourteen (14), or younger if determined appropriate by the ARD committee, and updated annually thereafter, the ARD committee must address transition services as part of the IEP.

This guideline applies to children for whom transition services are included as part of the IEP.

Transition services means a coordinated set of activities for the child with a disability that:

- Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to post-school activities, including:
 - Post-Secondary education;
 - Vocational education;
 - Integrated employment, including supported employment;
 - Continuing and adult education;
 - Adult services;
 - Independent living; or
 - Community participation;

- Is based on the individual child's needs, taking into account the child's strengths, preferences, and interests, and includes:
 - Instruction;
 - Related services;
 - Community experiences;
 - The development of employment and other post school adult living objective; and
 - If appropriate, acquisition of daily living skills and provision of functional vocational evaluation.

If the child does not attend the ARD committee meeting where transition services are discussed (as set forth in the ARD Committee guidelines), the LEA must take other steps to ensure the child's preferences and interests are considered.

DEVELOPMENT OF A COORDINATED SET OF ACTIVITIES

34 C.F.R. § 300.43(b); TEC §§ 28.025(a)(b)(1-3,6-9), 29.011(1); 19 TAC § 89.1055(g)(1)

Transition services may be special education, if provided as specially-designed instruction, or a related service, if required to assist the child with a disability to benefit from special education as described in the Supplementary Aids and Services, Special Education, Related Services guidelines.

If the ARD committee determines the child is unable to participate in physical activity due to a disability or illness, the child will be allowed to substitute one (1) credit in English language arts, mathematics, science, social studies, or one (1) academic elective (which is not used to satisfy another graduation requirement) for one (1) physical education credit.

The LEA must ensure that each child enrolls in the courses necessary to complete the curriculum requirements for the recommended or advanced high school program unless:

- The child, the child's parent, and a school counselor or school administrator agree in writing signed by each party that the child should be permitted to take courses under the minimum high school program and the child:
 - Is at least sixteen (16) years of age;
 - Completed two (2) credits required for graduation in each subject of the foundation curriculum; or
 - Failed to be promoted to the tenth (10th) grade one (1) or more times as determined by the school district;
- The LEA provides written notice, developed by the TEA and printed in English and Spanish, to the parent explaining the benefits of the recommended high school program before the child's parent agrees that the child may be permitted to take courses under the minimum high school program;
- The child's parent signs a confirmation of receipt of the written notice and returns the confirmation to the child's campus; and
- The child agreeing to take courses under the minimum high school program may, upon request, resume taking courses under the recommended high school program.

The ARD committee must consider the following issues in the development of the IEP and, if appropriate, integrate into the IEP:

- Appropriate child involvement in the child's transition to life outside the public school system;
- If the child is younger than eighteen (18) years of age, appropriate parental involvement in the child's transition;
- If the child is at least eighteen (18) years of age, appropriate parental involvement in the child's transition, if the parent is invited to participate by the adult student or the LEA;
- Any postsecondary education options;
- A functional vocational evaluation;
- Employment goals and objectives;
- If the child is at least eighteen (18) years of age, the availability of age-appropriate instructional environments;
- Independent living goals and objectives; and
- Appropriate circumstances for referring the child or the child's parents to a governmental agency for services.

The LEA must comply with the Consent for Disclosure of Confidential Information guidelines.

If a participating agency, other than the LEA, fails to provide the transition services described in the IEP, the LEA must reconvene the ARD committee to identify alternative strategies to meet the transition objectives set out in the IEP.

DEVELOPMENT OF POSTSECONDARY GOALS

34 C.F.R. § 300.320(b)(1); 20 U.S.C. § 1414(d)(1)(A)(i)

The ARD committee must develop appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to:

- Training;
- Education;
- Employment; and
- Where appropriate, independent living skills.

The ARD committee must determine transition services, including courses of study, needed to assist the child in reaching those postsecondary goals.

TRANSFER OF RIGHTS AT AGE OF MAJORITY

34 C.F.R. § 300.320(c); TEC § 29.017; 20 U.S.C. § 1414(d)(1)(A)(i)

Beginning not later than one (1) year before the child reaches the age of eighteen (18), the ARD committee must provide a statement that the child has been informed of the child's rights under the Individuals with Disabilities Education Act, if any, that will transfer to the child on reaching the age of eighteen (18).

When the child reaches the age of eighteen (18), the LEA must comply with the Adult Student guidelines.

PRESENT LEVELS

20 U.S.C. § 1414; 34 C.F.R. Part 300; 20 U.S.C. § 1414(d)(1)(A)(i)(I); 34 C.F.R. Part 300.320(a)(1), 300.320(a)(1)(ii); Prekindergarten Curriculum Guidelines

The ARD committee must provide a statement of the child's present levels of academic achievement.

The ARD committee must provide a statement of the child's present levels of functional performance.

The ARD committee's present levels statement must include:

- How the child's disability affects the child's involvement and progress in the general education curriculum; or
- How the disability affects the preschool child's participation in appropriate activities.

ANNUAL GOALS

20 U.S.C. § 1414; 34 C.F.R. Parts 200, 300; 34 C.F.R. § 300.320(a)(2)(ii)(3)(i-ii); 20 U.S.C. § 1414(d)(1)(A)(i)

The ARD committee must provide a statement of measurable annual academic goals:

- Designed to meet the child's needs that result from the child's disability to enable the child to be involved in and to make progress in the general education curriculum;
- Meet each of the child's other educational needs that result from the child's disability.

For the child who takes an alternate state assessment aligned to alternate achievement standards, the ARD committee must include in the child's IEP a description of benchmarks or short-term objectives.

The ARD committee must include in the child's IEP a description of:

- How the child's progress toward meeting the annual goals will be measured; and
- When periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided.

SPECIAL FACTORS

20 U.S.C. §§ 1401, 1414; 34 C.F.R. Part 300; Texas Education Code; 19 TAC Chapter 89; Texas School for the Deaf Admissions FAQs; Educating Students with Visual Impairments in Texas: Guidelines and Standards; Texas School for the Blind and Visually Impaired General Information for Parents

BEHAVIOR

34 C.F.R. § 300.324(a)(2)(i); 20 U.S.C. § 1414(d)(3)(B)(i)

In the case of a child whose behavior impedes the child's learning or that of others, the ARD committee must consider:

- The use of positive behavioral interventions and supports; and
- Other strategies to address that behavior, including functional behavioral assessments and the development of a behavior intervention plan.

COMMUNICATION

34 C.F.R. § 300.324(a)(2)(i); 20 U.S.C. § 1414(d)(3)(B)(iv)

The ARD committee must consider the communication needs of the child.

LIMITED ENGLISH PROFICIENCY (LEP)

34 C.F.R. § 300.324(a)(2)(i); 20 U.S.C. § 1414(d)(3)(B)(i); 19 TAC §§ 89.1220, 89.1230(b), 1225(d)(f)(4)(k)

In the case of the child with limited English proficiency, the ARD committee must consider the language need of the child as such needs relate to the child's IEP.

The ARD committee must comply with the ARD Committee Meeting guidelines by including a professional member of the LPAC to serve on the ARD committee of each child with limited English proficiency.

The decision for entry into a bilingual education or English as a second language (ESL) program must be determined by the ARD committee in conjunction with the LPAC and must comply with the State and District-wide Assessments guidelines.

If the tests approved by the commissioner of education would be inappropriate as part of the child's IEP, the ARD committee, in conjunction with the LPAC, must:

- Determine an appropriate assessment instrument for indicating limited English proficiency; and
- Designate the grade level and scores for indicating limited English proficiency.

The decision to exit the child who receives both special education and special language services from the bilingual education or ESL program is determined by the ARD committee in conjunction with the LPAC committee.

If the standard tests used to exit children from a bilingual or ESL program would be inappropriate as part of the child's IEP, the ARD committee, in conjunction with the LPAC, must determine an appropriate assessment instrument and performance standard requirement.

DEAF OR HARD OF HEARING

34 C.F.R. § 300.324(a)(2)(iv); 20 U.S.C. § 1414(d)(3)(B)(iv)

In the case of a child who is deaf or hard of hearing, the ARD committee must consider the child's:

- Language and communication needs;
- Opportunities for direct communications with peers and professional personnel in the child's language and communication mode;
- The child's academic level; and
- Full range of needs, including opportunities for direct instruction in the child's language and communication mode.

The LEA must ensure that the child who is deaf or hard of hearing has an education in which the child's unique communication mode is respected, used, and developed to an appropriate level of proficiency.

The LEA must provide each parent with the state-adopted form that contains written information about programs offered by state institutions.

BLIND OR VISUALLY IMPAIRED

34 C.F.R. §§ 300.324(a)(2)(iii), 300.34(c)(7); 20 U.S.C. § 1414(d)(3)(B)(iii); 19 TAC § 89.1055(d)

In the case of a child who is blind or visually impaired, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or the use of Braille), the ARD committee must either:

- Provide for reading and writing instruction in Braille and the use of Braille; or
- Determine that instruction in Braille or the use of Braille is not appropriate.

The ARD committee must develop an IEP that:

- Provides a detailed description of the arrangements made to provide the child with orientation and mobility training, instruction in Braille or use of large print, other training to compensate for serious visual loss, and access to special media and special tools, appliances, aids, or devices commonly used by individuals with serious visual impairments;
- Sets forth the plans and arrangements made for contacts with and continuing services to the child beyond regular school hours to ensure the child receives the training in compensatory skills, communicative skills, orientation and mobility, and social adjustment skills, and receives the vocational or career counseling (as required for the child to succeed in classroom settings and derive lasting, practical benefits from the education in the LEA); and
- Reflects that the child has been provided a detailed explanation of the various service resources available in the community and throughout the state.

When developing the IEP for a child who is functionally blind (according to the TEA's criteria for the child to be classified as functionally blind):

- The full and individual evaluation (FIE) for visual impairment must include documentation of the child's strengths and weaknesses in Braille skills;
- Proficiency in Braille reading and writing is presumed to be essential for the child's satisfactory educational progress;
- Each person assisting in the development of the child's IEP must receive information describing the benefits of Braille instruction;
- The ARD committee must provide for Braille reading and writing instruction that is sufficient to enable the child to communicate with the same level of proficiency as other children of comparable ability who are at the same grade level;
- Braille instruction may be used in combination with other special education services appropriate to the child's educational needs;
- The ARD committee must specify the appropriate learning medium based on the FIE; and
- The ARD committee must ensure that instruction in Braille will be provided by a teacher certified to teach children with visual impairments.

ASSISTIVE TECHNOLOGY

34 C.F.R. §§ 300.324(a)(2)(v), 300.5, 300.6(a)(b)(c); 20 U.S.C. §§ 1401(1)(A)(B)(2)(C)(D)(E), 1402(2)(F)

The ARD committee must consider whether the child needs assistive technology devices (ATDs).

The term "assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of the child with a disability.

The term "assistive technology device" does not include a medical device that is surgically implanted, or the replacement of such device.

The ARD committee must consider whether the child needs assistive technology services.

The term “assistive technology service” means any service that directly assists the child with a disability in the selection, acquisition, or use of an ATD, and includes:

- The evaluation of the needs of the child, including a functional evaluation of the child in the child’s customary environment;
- Purchasing, leasing, or otherwise providing for the acquisition of ATDs by the child;
- Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing ATDs;
- Coordinating and using other therapies, interventions, or services with ATDs, such as those associated with existing education and rehabilitation plans and programs;
- Training or technical assistance for the child, or, where appropriate, the family of the child; and
- Training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of the child.

AUTISM

34 C.F.R. § 200.320(a)(4); 20 U.S.C. § 1414(d)(1)(A)(i); 19 TAC § 89.1055(e)(1-11)

In the case of the child with autism, the strategies below must be considered by the ARD committee, based on peer-reviewed, research-based educational programming practices to the extent practicable.

If the ARD committee determines that services are not needed in one or more of the strategy areas specified below, the ARD committee must include a statement in the IEP to that effect and the basis upon which the determination was made.

When needed, the ARD committee must address the following strategies in the IEP:

- Extended educational programming (for example: extended day and/or extended school year services that consider the duration of programs/settings based on assessment of behavior, social skills, communication, academics, and self-help skills);
- 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);
- In-home and community-based training or viable alternatives that assist the child with acquisition of social/behavioral 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);
- Positive behavior support strategies based on relevant information: (for example: antecedent manipulation, replacement behaviors, reinforcement strategies, and data-based decisions; and behavior 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);
- Beginning at any age, consistent with the Transition Services framework, futures planning for integrated living, work, community, and educational environments that considers skills necessary to function in current and post-secondary environments;

- Parent/family training and support, provided by qualified personnel with experience in autism spectrum disorders that, for example:
 - Provides a family with skills necessary for the child to succeed in the home/community setting;
 - 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 child’s curriculum); and
 - 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);
- Suitable staff-to-child ratio appropriate to identified activities and as needed to achieve social/behavioral progress based on the child’s developmental and learning level (acquisition, fluency, maintenance, generalization) that encourages work towards individual independence as determined by, for example:
 - Adaptive behavior evaluation results;
 - Behavioral accommodation needs across settings; and
 - Transitions within the school day;
- Communication interventions, including language forms and functions that enhance effective communication across settings (for example: augmentative, incidental, and naturalistic teaching);
- Social skills supports and strategies based on social skills assessment/curriculum and provided across settings (for example: trained peer facilitators, circle of friends, video modeling, social stories, and role playing);
- Professional educator/staff support (for example: training provided to personnel who work with the child to assure the correct implementation of techniques and strategies described in the IEP); and
- Teaching strategies based on peer-reviewed research-based practices for children with autism spectrum disorder (for example: those associated with discrete-trial training; visual supports, applied behavior analysis, structured learning, augmentative communication, or social skills training).

SUPPLEMENTARY AIDES AND SERVICES, SPECIAL EDUCATION, RELATED SERVICES

20 U.S.C. §§ 1401, 1414, 7801; 34 C.F.R. Part 300; Texas Education Code; 19 TAC Chapter 89

For each child placed in a residential setting by the ARD committee, supplementary aids and services, special education, and related services must be based on peer-reviewed research to the extent practicable.

SUPPLEMENTARY AIDES AND SERVICES

34 C.F.R. §§ 300.320(a)(4), 300.42; 20 U.S.C. § 1401(33); 19 TAC § 89.1050(a)(1)

The ARD committee must determine needed supplementary aids and services to be provided to the child, or on behalf of the child.

The term “supplementary aids and services” means aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable the child with a disability to be educated with nondisabled children to the maximum extent appropriate.

SPECIAL EDUCATION

34 C.F.R. §§ 300.320(a)(4), 300.39(a); 20 U.S.C. § 1414(d)(1)(A)(i); 19 TAC § 89.1050(a)(1)

The ARD committee must determine needed special education services.

The term “special education” means specially-designed instruction, at no cost to parents, to meet the unique needs of the child with a disability.

RELATED SERVICES

34 C.F.R. §§ 300.320(a)(4), 300.34(a)(b); 20 U.S.C. §§ 1414(d)(1)(A)(i), 1401(26); 19 TAC § 89.1050(a)(1)

The ARD committee must determine needed related services.

The term “related services” means transportation, and such developmental, corrective, and other supportive services as may be required to assist the child with a disability to benefit from special education.

For each child placed in a residential setting by the ARD committee:

- The resident school district shall be responsible for transportation at the beginning and end of the term and for regularly scheduled holidays when students are expected to leave the residential campus; and
- When the ARD committee determines it is necessary for the safety of the child to be accompanied by an adult designated by the ARD committee, round-trip transportation for that adult shall also be provided.

PROGRAM MODIFICATIONS AND SUPPORT FOR SCHOOL PERSONNEL

34 C.F.R. §§ 300.320(a)(4)(ii), 300.107, 300.117; 20 U.S.C. §§ 1414(d)(1)(A)(i), 1401(26); 19 TAC § 89.1050(a)(1)

The ARD committee must determine needed program modifications or supports for school personnel that will be provided to the child to enable the child to:

- Advance appropriately toward attaining the annual goals;
- Be involved in and make progress in the general education curriculum, and be afforded an equal opportunity to participate in extracurricular and other nonacademic activities including, to the maximum extent appropriate, in nonacademic settings and services such as:
 - Meals;
 - Recess periods;
 - Counseling services;
 - Athletics;

- Transportation;
- Health services;
- Recreational activities;
- Special interest groups or clubs sponsored by the LEA;
- Referrals to other agencies that provide assistance to individuals with disabilities;
- Employment of children, including both employment by the LEA and assistance in making outside employment available; and
- Be educated and participate with other children with disabilities and nondisabled children.

TRAINING TO IMPLEMENT THE INDIVIDUALIZED EDUCATION PROGRAM (IEP)

TEC § 21.451(d)(2)(e)(f)

The LEA is required to provide training to an educator who works primarily outside the area of special education only if the educator does not possess the knowledge and skills necessary to implement the IEP developed for the child receiving instruction from the educator. If such training is to be provided to an educator, the following conditions must be met:

- The LEA may determine the time and place at which the training is delivered;
- The LEA must include training based on scientifically-based research that:
 - Relates to instruction of children with disabilities; and
 - Is designed for educators who work primarily outside the area of special education; and
- In developing or maintaining the training, the LEA must consult with persons with expertise in research-based practices for children with disabilities such as:
 - Persons from colleges, universities, private and nonprofit organizations, and regional education service centers;
 - Qualified LEA personnel; and
 - Any other persons identified as qualified by the LEA.

INTENSIVE PROGRAM OF INSTRUCTION

TEC §§ 28.0211, 28.0213(a)(c)(e)(1-2); 19 TAC § 89.1050(a)(10)

For a child who did not perform satisfactorily on statewide assessment under the State and District-wide Assessments guidelines:

- The ARD committee must design the intensive program of instruction:
 - To enable the child to attain a standard of annual growth on the basis of the child’s IEP; and
 - If applicable, to carry out the purposes of the Student Success Initiative.

For a child who did not perform satisfactorily on an end-of-course assessment instrument for secondary level courses in Algebra I, Biology, English I, English II, or United States History:

- The ARD committee must design the intensive program of instruction:
 - To enable the child to attain a standard of annual growth on the basis of the child’s IEP; and
 - If applicable, to carry out the purposes of the Student Success Initiative.

ACCELERATED INSTRUCTION UNDER THE TEXAS READING INITIATIVE

TEC § 28.006(c)(g); 19 TAC § 89.1050(a)(7)

For a child in kindergarten or first (1st) or second (2nd) grade who did not perform satisfactorily on a reading assessment instrument selected from the list adopted by the Commissioner of Education or by the district-level committee, and administered as part of the Texas Reading Initiative:

- The ARD committee must determine the manner in which the child will participate in an accelerated reading instruction program.

STUDENT SUCCESS INITIATIVE FOR CHILDREN IN GRADES FIFTH AND EIGHTH

TEC § 28.0211(i)(1)

The ARD committee must determine the manner in which a child will participate in an accelerated instruction program when required as part of the Student Success Initiative.

The ARD committee must determine whether a child will be promoted or retained when required as part of the Student Success Initiative.

INITIATION, FREQUENCY, AND DURATION OF SERVICES

34 C.F.R. § 300.320(a)(7); 20 U.S.C. § 1414(d)(1)(A)(i); 19 TAC § 89.1075(d)

The ARD committee must determine:

- The projected date for the beginning of the services and modifications;
- The anticipated frequency of those services and modifications; and
- The anticipated duration of those services and modifications.

The ARD committee must determine the appropriate length of school day and specify the length of school day in the IEP.

Children with disabilities must have available an instructional day commensurate with that of children without disabilities.

LOCATION

TEC § 25.0343(a)(1-2)(b)(c)(1)(d); 19 TAC § 89.1050(a)(1)

The ARD committee must determine the anticipated location of those services and modifications.

If, for the purpose of receiving special education services, the LEA assigns a child to a campus location other than the campus location the child would attend based on the child's residence:

- The LEA must permit the child's parent, guardian, or other person standing in parental relation to the child to obtain a transfer to the assigned campus for any other child residing in the household of the child receiving special education services, provided that:
 - The other child is entitled to attend school in the LEA;
 - The appropriate grade level for the other child is offered at the campus;

- The child receiving special education services does not reside in a residential facility; and
- The LEA is not required to provide transportation to the other child who transfers to another campus location under this section; however, this does not affect any transportation services provided by the LEA in accordance with other laws for the child receiving special education services.

NONDISCRIMINATION POLICY AND LEAST RESTRICTIVE ENVIRONMENT (LRE)

NONDISCRIMINATION POLICY

No qualified student with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any service, program, or activity provided or offered by **Arrow Academy**.

42 U.S.C. 12132; 29 U.S.C. 794(a); 34 CFR 104.4(a).

FREE APPROPRIATE PUBLIC EDUCATION

Eligible students with disabilities shall enjoy the right to a free appropriate public education (“FAPE”), which may include instruction in the regular classroom, instruction through special teaching, or instruction through approved contracts. Instruction shall be supplemented by the provision of related services when appropriate.

Education Code 29.003(a).

FAPE means special education and related services that:

- Have been provided at public expense, under public supervision and direction, and without charge;
- Meet standards set out by the Texas Education Agency (“TEA”);
- Include an appropriate preschool, elementary school, or secondary school education; and
- Are provided in conformity with the student’s individualized education program (“IEP”).

20 U.S.C. 1401(9); 34 CFR 300.13, 300.17, 300.36.

LEAST RESTRICTIVE ENVIRONMENT

Arrow Academy shall ensure that, to the maximum extent possible, children with disabilities shall be educated with children who are not disabled. Special classes, special schooling, or other removal of children with disabilities from the regular educational environment shall occur only when the nature or severity of the child’s disability is such that education in regular classes with the use of supplementary aids and services cannot be satisfactorily achieved.

20 U.S.C. 1412(a)(5); 34 CFR 300.114(a)(2).

DISCIPLINE

All disciplinary actions regarding students with disabilities shall be determined in accordance with applicable federal regulations, Education Code Chapter 37 (as applicable), and 19 Administrative Code 89.1053.

19 TAC 89.1050(a)(4).

INSTRUCTIONAL ARRANGEMENTS AND SETTINGS

Instructional arrangements and settings shall be based on the individual needs and IEPs of eligible students receiving special education services. Instructional arrangements/settings include:

- **Mainstream:** special education and related services provided to a student in the general education classroom in accordance with the student's IEP. Qualified special education personnel must be involved in the implementation of the student's IEP through the provision of direct, indirect, and/or support services to the student and/or the student's general education classroom teacher(s) necessary to enrich the general education classroom and enable student success. The student's IEP must specify the services that will be provided by qualified special education personnel to enable the student to appropriately progress in the general education curriculum and/or appropriately advance in achieving the goals set out in the student's IEP. Examples of services provided in this instructional arrangement include, but are not limited to, direct instruction, helping teacher, team teaching, co-teaching, interpreter, educational aides, curricular or instructional modifications/accommodations, special materials/equipment, positive classroom behavioral interventions and supports, consultation with the student and his/her general education classroom teacher(s) regarding the student's progress in general education classes, staff development, and reduction of ratio of students to instructional staff. Monitoring student progress in and of itself is not a special education service; this cannot be listed as the only specially designed instruction documented in a student's IEP.
- **Homebound:** also referred to as home-based instruction, is for providing special education and related services who are served at their home for the following reasons:
 - **Medical reasons.** Homebound instruction is used for a student whose Admission, Review & Dismissal ("ARD") committee has received medical documentation from a physician licensed to practice in the United States that the student is expected to incur full-day absences from school for a minimum of four weeks for medical reasons, which could include psychological disorders, and the ARD committee has determined that this is the most appropriate placement for the student. The weeks do not have to be consecutive. For the ARD committee to approve this placement, the committee will review documentation related to anticipated periods of student confinement to the home, as well as whether the student is determined to be chronically ill or any other unique medical circumstances that would require this placement in order to provide FAPE to the student. Documentation by a physician does not guarantee the placement of a student in this instructional arrangement/setting, as the student's ARD committee shall determine whether the placement is necessary for the provision of FAPE, and, if so, will determine the amount of services to be provided to the student at home in this instructional

- arrangement/setting in accordance with federal and state laws, rules, and regulations, including the provisions specified in 19 TAC 89.1.005(c);
- Children ages through five years of age. Home-based instruction may be used for children ages three through five when determined appropriate by the child's ARD committee and as documented in the student's IEP. While this setting would generate the same weight as the homebound instructional arrangement/setting, the data on this setting may be collected differently than the medical homebound arrangement/setting;
 - Students confined to or educated in hospitals. This instructional arrangement/setting also applies as described in TEC § 29.014I
 - Hospital class: services provided in a classroom, hospital facility, or residential care and treatment facility not operated by **Arrow Academy** as set forth in 19 TAC 89.1055(e)(3);
 - Speech therapy: speech therapy services provided, whether in a general education classroom or setting other than a general education classroom.
 - When the only special education service provided to a student is speech therapy, then this instructional arrangement may not be combined with any other instructional arrangement. If a student's IEP indicates that a special education teacher is involved in the implementation of the student's IEP but there is no indication of how that teacher provides a special education service, the student is in the speech therapy instructional arrangement/setting;
 - When a student receives speech therapy and a related service but no other special education service, the student is in the speech therapy instructional arrangement/setting;
 - Resource room/services: This instructional arrangement/setting is for providing special education and related services to a student in a setting other than general education for less than 50% of the regular school day. For funding purposes, this will be differentiated between the provision of special education and related services to a student in a setting other than general education for less than 21% of the instructional day and special education and related services provided to a student in a setting other than general education for at least 21% of the instructional day but less than 50% of the instructional 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 setting other than general education for 50% or more of the regular school day on a regular school campus. For funding purposes, mild/moderate will be considered at least 50% but no more than 60% of the student's instructional day, and severe will be considered more than 60% of the student's instructional day;
 - Off-home campus: This instructional arrangement/setting is for providing special education and related services as set forth in 19 TAC 89.1055(e)(6);
 - Nonpublic day school: services provided through a contractual agreement with a nonpublic school;
 - Vocational adjustment class/program: Although referred to as a class, this instructional arrangement/setting is a support program for providing special education and related services to a student who is placed on a job (paid or unpaid unless otherwise prohibited by law) with regularly scheduled direct involvement by special education personnel in

the implementation of the student's IEP. This instructional arrangement/setting shall be used in conjunction with the student's transition plan, as documented in the student's IEP, and may include special education services received in career and technical education work-based learning programs;

- Residential care and treatment facility (not **Arrow Academy** resident): services provided at a facility at which a student with a disability currently resides, who was not placed at the facility by the student's ARD committee, and whose parent or guardian does not reside in the district providing educational services to the student. This instructional arrangement/setting is for providing special education and related services to a student on a **Arrow Academy** campus who resides in a residential care and treatment facility and whose parents do not reside within the boundaries of the school district that is providing educational services to the student. If the instruction is provided at the facility, rather than on a school district campus, the instructional arrangement is considered to be the hospital class arrangement/setting rather than this instructional arrangement, or if the student resides at a state-supported living center, the instructional arrangement will be considered the state school arrangement/setting. Students with disabilities who reside in these facilities may be included in the average daily attendance of the district in the same way as all other students receiving special education;
- State supported living center: services provided to a student who resides at a state supported living center when the services are provided at the state supported living center location; or
- Other program options, including contracts with other districts and programs approved by TEA.

19 TAC 89.1005.

RELATED SERVICES

“Related services” means transportation, and such developmental, corrective, and other supportive services as may be required to assist a child with a disability to benefit from special education, including the early identification and assessment of disabling conditions in children.

The term includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, school nurse services designed to enable a child with a disability to receive a FAPE as described in the child's IEP, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that medical services shall be for diagnostic and evaluation purposes only.

The term does not include a medical device that is surgically implanted, the optimization of the device's functioning, or the replacement of such device.

20 U.S.C. 1401(26); 34 CFR 300.34.

STATE AND DISTRICT-WIDE ASSESSMENTS

*20 U.S.C. §§ 1412, 1414, 6311; 34 C.F.R. Parts 200, 300; Texas Education Code; 19 TAC Chapters 89, 101; 2009-2010 Texas Student Assessment Accommodations Manual, ARD Decision-Making Guide
20 U.S.C. §§ 1412(a)(16)(A), 6311(b)(3)(C)(i); 19 TAC § 101.1009(b)*

In general, all children with disabilities are included in all general state and district wide assessment programs, including assessments described under the ESEA, with appropriate accommodations and alternate assessments where necessary and as indicated in their respective IEPs.

DISTRICT-WIDE ASSESSMENTS

20 U.S.C. §§ 1412(a)(16)(B), 1414(d)(1)(A)(i)(VI)(aa), 1414(d)(1)(A)(i)(VI)(bb); 34 C.F.R. Part 300.320(a)(6)(i), 300.320(a)(6)(ii), 300.320(a)(6)(iii)(A); 19 TAC §§ 89.1055(b), 89.1055(b)(1), 89.1055(b)(2),

If the district administers any optional district-wide assessments of achievement, the ARD committee must provide a statement of any individualized appropriate and allowable accommodations that are necessary to measure the academic achievement and functional performance of the child on such assessment:

- The statement must be consistent with accommodation guidelines that the state or the LEA has developed for the provision of appropriate accommodations.

If the ARD committee determines that the child must take an alternate assessment on a particular district-wide assessment of achievement, provide a statement of:

- Why the child cannot participate in the regular assessment; and
- Why the particular alternate assessment selected is appropriate for the child.

EARLY READING ASSESSMENTS

20 U.S.C. §§ 1412(a)(16)(B), 1414(d)(1)(A)(i)(VI)(bb); 34 C.F.R. Part 300.320(a)(6)(i), 300.320(a)(6)(ii), 300.320(a)(6)(iii)(A), 300.320(a)(6)(iii)(B); 19 TAC §§ 89.1055(b), 89.1055(b)(1), 89.1055(b)(2)

If the district administers reading instruments to children in kindergarten and first (1st) and second (2nd) grade, and to children in seventh (7th) grade, as part of the Texas Reading Initiative, the ARD committee must provide a statement of any individualized appropriate and allowable accommodations that are necessary to measure the academic achievement and functional performance of the child on such assessment:

- The statement must be consistent with accommodation guidelines that the state has developed for the provision of appropriate accommodations.
- The statement must be consistent with accommodation guidelines that the state has developed for the provision of appropriate accommodations.

If the ARD committee determines that the child must take an alternate assessment on a particular reading assessment, the ARD committee must provide a statement of:

- Why the child cannot participate in the regular assessment; and
- Why the particular alternate assessment selected is appropriate for the child.

ASSESSMENT FOR EXIT FROM A BILINGUAL OR ESL PROGRAM

20 U.S.C. §§ 1412(a)(16)(B), 1414(d)(1)(A)(i)(VI)(bb); 34 C.F.R. Part 300.320(a)(6)(i), 300.320(a)(6)(ii)(A), 300.320(a)(6)(iii)(B); 19 TAC §§ 89.1055(b), 89.1055(b)(1), 89.1055(b)(2), 89.1225(h), 89.1225(k)

The ARD committee must provide a statement of any individualized appropriate and allowable accommodations that are necessary to measure the academic achievement and functional performance of a child on an assessment for exit of the child from a bilingual or ESL program:

- The statement must be consistent with accommodation guidelines that the state has developed for the provision of appropriate accommodations.

For exit from a bilingual education or ESL program of a child with disabilities for whom the tests would be inappropriate as part of the IEP, the ARD committee, in conjunction with the LPAC, must:

- Provide a statement of why the child cannot participate in the regular assessment;
- Determine an appropriate assessment instrument for exit from a bilingual education or ESL program;
- Provide a statement of why the particular assessment selected is appropriate for the child; and
- Determine the performance standard on the assessment instrument required for exit.

The ARD committee must comply with the Special Factors framework to determine exit from a bilingual education or ESL program.

END-OF-COURSE STATEWIDE ASSESSMENTS

The ARD committee must provide a statement of any individualized appropriate and allowable accommodations that are necessary to measure the academic achievement and functional performance of a child on any end-of-course assessment:

- The statement must be consistent with accommodation guidelines that the state or LEA has developed for the provision of appropriate accommodations.

If the ARD committee determines that a child must take an alternate assessment on a particular end-of-course assessment, the ARD committee must provide a statement of:

- Why the child cannot participate in the regular assessment; and
- Why the particular alternate assessment selected is appropriate for the child.

STUDENT SUCCESS INITIATIVE

19 TAC §§ 89.1050, 101.2003; TEC § 28.0211

For a child who does not perform satisfactorily on a state assessment, the LEA must comply with the requirements of the Student Success Initiatives guidelines, as applicable.

GRADUATION

APPLICABILITY OF TITLE RELATING TO HIGH SCHOOL GRADUATION

Arrow Academy is subject to a prohibition, restriction, or requirement, as applicable, imposed by Title 2 (Public Education) of the Texas Education Code (“TEC”), or a rule adopted under Title 2 (Public Education) of the TEC, relating to high school graduation under TEC Section 28.025.

Education Code 12.104(b)(2)(E).

MODIFIED CURRICULUM AND MODIFIED CONTENT

For purposes of this policy and its related requirements, “modified curriculum” and “modified content” reference any reduction of the amount or complexity of required Texas Essential Knowledge and skills. Substitutions that are not specifically authorized in statute or regulations must not be considered modified curriculum or modified content.

19 TAC 89.1070(k).

ARD COMMITTEE AND TRANSITION PLANNING

Not later than the first Individualized Education Program (“IEP”) to be in effect when the student turns 14 years of age, the Admission, Review and Dismissal (“ARD”) committee must consider and, if appropriate, address, transition planning in accordance with applicable state and federal law. The ARD committee must also consider the student’s graduation plan and what state assessments are required for graduation. For more information about transition planning, see PG-6.3.

34 CFR 300.43(a), (b), 300.321(b)(2); Education Code 29.011, 29.0111; 19 TAC 89.1055(k)-(o).

SPECIAL EDUCATION ELIGIBILITY UPON GRADUATION

Graduation under 19 TAC 89.1070(b)(1) or reaching maximum age eligibility as set forth in 19 TAC 89.1035 terminates a student’s eligibility for special education and related services and entitlement to the benefits of the Foundation School Program as set forth in TEC 48.003(a) Termination of eligibility based on graduation requires **Arrow Academy** to complete a summary of performance in accordance with 34 CFR 300.305(e)(3), and prior written notice must also be provided.

34 CFR 300.102; 19 TAC 89.1035(a), 89.1070(a)

GRADUATION REQUIREMENTS

Pursuant to 19 TAC 89.1070(b)(1), student with a disability who receives special education services may graduate and receive a diploma if the student satisfies the following criteria:

- Demonstrates mastery of the required states standards or **Arrow Academy**’s standards if they are greater;
- Satisfactorily completes the credit requirements for graduation under the Foundation High School Program applicable to students in general education; and
- Demonstrates satisfactory performance as established for students in general education in Chapters 28 and 39, on the required end-of-course assessment instruments, which could include meeting the requirements of 19 TAC 89.1070(d).

Education Code 28.025(c)(1), 39.025; 19 TAC 74.12, 89.1070(b)(1), 101.3023(a).

A student who is in eleventh or twelfth grade who has taken each of the required state assessments required by Chapter 101, Subchapter CC of the Education Code, but failed to

achieve satisfactorily on no more than two of the assessments, is eligible to receive a diploma under 19 TAC 89.1070(b)(1) above.

19 TAC 89.1070(d).

Pursuant to 19 TAC 89.1070(b)(2), a student who receives special education services may also graduate and receive a diploma if:

- The student demonstrates mastery of the required states standards or **Arrow Academy**'s standards if they are greater;
- The student satisfactorily completes the credit requirements for graduation under the Foundation High School Program applicable to students in general education; and
- The student's ARD committee has determined that satisfactory performance, beyond what would otherwise be required in 19 TAC 89.1070(b)(1) and (d), on the required end-of-course instruments is not required for graduation.

19 TAC 89.1070(b)(2).

Pursuant to 19 TAC 89.1070(b)(3), a student who receives special education services may also graduate and earn diploma if:

- The student satisfactorily completes the credit requirements for graduation under the Foundation High School Program through courses, one or more of which contain modified curriculum that is aligned to the standards applicable to general education;
- The student demonstrates mastery of the required state standards (or **Arrow Academy**'s standards if greater) in accordance with modified content and curriculum expectations established in the student's IEP;
- The student achieves satisfactory performance on the required end-of-course assessment instruments, unless the student's ARD committee has determined that satisfactory performance on the required end-of-course instruments is not required for graduation; and
- The student successfully completes the IEP and meets one of the following conditions:
 - consistent with the IEP, the student obtains full-time employment and masters sufficient self-help skills to enable the student to maintain employment without direct or ongoing educational support of **Arrow Academy**;
 - consistent with the IEP, the student has demonstrated mastery of specific employability skills and self-help skills that do not require ongoing educational support from **Arrow Academy**; or
 - the student has access to services or other supports that are not within the legal responsibility of public education, including employment or postsecondary education established through transition planning.

Education Code 28.025; 19 TAC 89.1035, 89.1070(b)(3).

For students who graduate and receive a diploma according to 19 TAC 89.1070(b)(2) or (b)(3)(A), (B), or (C) described above, the ARD committee must determine needed special education services upon the request of the student or parent to resume services, as long as the student meets the age eligibility requirements.

19 TAC 89.1070(j).

SUMMARY OF PERFORMANCE

A summary of academic achievement and functional performance must be provided prior to exit from public school for students who meet one of the following:

- A student who has met requirements for graduation as set forth in 19 TAC 89.1070(b)(1) or who has exceeded the maximum age of eligibility under 19 TAC 89.1053;
- A student who has met requirements for graduation specified in 19 TAC 89.1070(b)(2) or (b)(3)(A), (B), or (C). A student meeting this condition is also entitled to an evaluation pursuant to 34 CFR 300.305(e)(1).

19 TAC 89.1070(f).

The summary of performance must:

- include recommendations on how to assist the student in meeting the student's postsecondary goals in accordance with 34 CFR 300.305(e)(3); and
- Consider, as appropriate, the views of the parent and student and written recommendations from adult service agencies on how to assist the student in meeting postsecondary goals.

19 TAC 89.1070(g).

CERTIFICATE OF ATTENDANCE

A student who has reached the maximum age of eligibility in accordance with 19 TAC 89.1035 without meeting the credit, curriculum, and assessment requirements specified in 19 TAC 89.1070(b) is not eligible to receive a diploma but may receive a certificate of attendance as set forth in TEC 28.025(f).

19 TAC 89.1070(e).

For students who meet the graduation requirements in 19 TAC 89.1070(b)(2) or (b)(3)(A), (B), or (C) described in Section 5 above, and who will continue enrollment in public school to receive special education services aligned with their transition plan will be provided he summary of performance described in Section 6 upon exit from the public school system. These students are entitled to participate in commencement ceremonies and receive a certificate of attendance after completing four years of high school, as described in TEC 89.025(f).

19 TAC 89.1070(h).

ENDORSEMENTS UNDER THE FOUNDATION HIGH SCHOOL PROGRAM

A student receiving special education services may receive an endorsement under 19 TAC 74.13 if the student:

- Satisfactorily completes the requirements for graduation under the Foundation High School Program specified in 19 TAC 74.12 as well as the additional credit requirements

in mathematics, science, and elective courses in 19 TAC 74.13(e) with or without modified curriculum;

- Satisfactorily completes the courses required for endorsement as set forth in 19 TAC 74.13(f) without any modified curriculum or with modification of the curriculum, provided that the curriculum, as modified, is sufficiently rigorous as determined by the ARD committee; and
- Performs satisfactorily as established in Chapter 39 of the Education Code, on the required end-of-course assessment instruments unless the student's ARD committee determines that satisfactory performance is not required.

Education Code 28.025(c-7); 19 TAC 89.1070(c).

SUBSTITUTIONS UNDER THE FOUNDATION HIGH SCHOOL PROGRAM

Language- Other-Than-English (“LOTE”)

A student who, due to disability, is unable to complete two credits in the same language in a LOTE, as provided in Section 28.025(b-1)(5), may substitute for those credits:

- Two credits in ELA, mathematics, science, or social studies; or
- Two credits in career and technology education (“CTE”), technology applications, or other academic electives.

A credit allowed to be substituted under the above provisions may not also be used by the student to satisfy a graduation credit requirement other than credit for completion of a LOTE.

The determination regarding a student's ability to participate in LOTE courses will be made by the student's ARD committee or the committee established for the student under Section 504, Rehabilitation Act of 1973 (29 United States Code, Section 794) if the student does not receive special education services under the TEC, Chapter 29, Subchapter A, but is covered by the Rehabilitation Act of 1973.

Education Code 28.025(b-14)(1); 19 TAC 74.12(b)(5).

Physical Education

In accordance with State Board of Education (“SBOE”) rules, a student who is unable to participate in physical activity due to disability or illness is allowed to substitute for the physical education credit required under TEC 28.025(b-1)(8):

- One credit in ELA, mathematics, science, or social studies;
- One credit in a course that is offered for a credit as provided by TEC 28.002(g-1); or
- One academic elective credit.

A credit allowed to be substituted for PE credit may not also be used by the student to satisfy any other graduation requirement.

The determination regarding a student's ability to participate in physical activity must be made by:

- The student's ARD committee, if the student receives special education services under the IDEA and Texas Education Code Chapter 29;
- The student's 504 committee, if the student does not receive special education services under the IDEA or Texas Education Code Chapter 29, Subchapter A but is covered by Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794; or
- If each of the committees described above is inapplicable, a committee established by the school of persons with appropriate knowledge regarding the student.

Education Code 28.025(b-11),(b-14); 19 TAC 74.12(b)(6)(G).

EXTENDED SCHOOL YEAR (ESY) SERVICES

34 C.F.R. Part 300; 19 TAC Chapter 89; 34 C.F.R. Part 300.106(b), 300.106(b)(1), 300.106(b)(1)(i), 300.106(b)(1)(ii), 300.106(b)(1)(iii), 300.106(b)(2); 19 TAC § 89.1065(8)

"Extended school year services" (ESY) means special education and related services that:

- Are provided to a child with a disability:
 - Beyond the normal school year of the public agency;
 - In accordance with the child's IEP;
 - At no cost to the parents of the child; and
 - Meet the standards of the TEA.

The provision of ESY services is limited to the educational needs of the child and must not supplant or limit the responsibility of other public agencies to continue to provide care and treatment services pursuant to policy or practice, even when those services are similar to, or the same as, the services addressed in the child's IEP.

No child will be denied ESY services because the child receives care and treatment services under the auspices of other agencies.

LIMITATIONS

34 C.F.R. Part 300.106(a)(3), 300.106(a)(3)(i), 300.106(a)(3)(ii); 19 TAC §§ 89.1065(1), 89.1065(1)(A), 89.1065(1)(B)

In determining the need for and in providing ESY services, the LEA may not:

- Limit ESY services to particular categories of disability; or
- Unilaterally limit the type, amount, or duration of ESY services.

DETERMINATION OF NEED

34 C.F.R. Part 300.106(a)(1), 300.106(a)(2); 19 TAC §§ 89.1065(1), 89.1065(5)

The need for ESY services must be determined on an individual basis by the ARD committee:

- Each LEA must ensure that ESY services are available as necessary to provide FAPE; and

- ESY services must be provided only if a child's ARD committee determines, on an individual basis, that the services are necessary for the provision of FAPE.

If the LEA does not propose ESY services for discussion at the annual review of a child's IEP, the parent may request that the ARD committee discuss ESY services.

DATA TO MAKE THE DECISION

19 TAC §§ 89.1065(2), 89.1065(7)

The ARD committee must determine the need for ESY from formal and/or informal evaluations provided by the district or the parents:

- For a child enrolling in the LEA during the school year, information obtained from the prior LEA as well as information collected during the current year may be used to determine the need for ESY services.

REGRESSION IN CRITICAL AREAS

19 TAC §§ 89.1065(2), 89.1065(4), 89.1065(4)(A), 89.1065(4)(B), 89.1065(4)(C), 89.1065(4)(D), 89.1065(4)(E)

The ARD committee must identify the critical areas addressed in the current IEP objectives, if any, in which the child has exhibited, or reasonably may be expected to exhibit, severe or substantial regression that cannot be recouped within a reasonable period of time

- "Severe or substantial regression" means that the child has been, or will be, unable to maintain one or more acquired critical skills in the absence of ESY services.
- A skill is critical when the loss of that skill results in, or is reasonably expected to result in, any of the following occurrences during the first eight (8) weeks of the next regular school year:
 - Placement in a more restrictive instructional arrangement;
 - Significant loss of acquired skills necessary for the child to appropriately progress in the general curriculum;
 - Significant loss of self-sufficiency in self-help skill areas as evidenced by an increase in the number of direct service staff and/or amount of time required to provide special education or related services;
 - Loss of access to community-based independent living skills instruction or an independent living environment provided by noneducational sources as a result of regression in skills; or
 - Loss of access to on-the-job training or productive employment as a result of regression in skills.

RECOUPMENT OF ACQUIRED SKILLS

19 TAC § 89.1065(3)

The ARD committee must determine the reasonable period of time for recoupment of acquired skills on the basis of needs identified in the child's IEP:

- If the loss of acquired critical skills would be particularly severe or substantial, or if such loss results in, or reasonably may be expected to result in, immediate physical harm to the child or to others, ESY services may be justified without consideration of the period of time for recoupment of such skills. In any case, the period of time for recoupment must not exceed eight (8) weeks.

GOALS AND OBJECTIVES

19 TAC §§ 89.1055(C), 89.1065(6)

If the ARD committee determines that a child is in need of ESY services, then the IEP must also include goals and objectives for ESY services from the child's current IEP.

If a child for whom ESY services were considered and rejected loses critical skills because of the decision not to provide ESY services, and if those skills are not regained after the reasonable period of time for recoupment, the ARD committee shall reconsider the current IEP if the child's loss of critical skills interferes with the implementation of the child's IEP.

REACHING CLOSURE AND CONSENSUS

Texas Education Code; 19 TAC Chapter 89

REACHING CLOSURE

19 TAC § 89.1050(e); TEC § 29.005(d)

The ARD committee documentation must include:

- The date of the meeting;
- The names, positions, and signatures of the members participating in each meeting; and
- Each member's agreement or disagreement with the committee's decisions.

If a student's parent is unable to speak English, either:

- Provide the parent with a written or audiotaped copy of the student's individualized education program (IEP) as record of the ARD meeting translated into Spanish, if Spanish is the parent's native language; or
- If the parent's native language is a language other than Spanish, make a good faith effort to provide the parent with a written or audiotaped copy of the student's IEP as record of the ARD meeting translated into the parent's native language.

REACHING CONSENSUS

19 TAC §§ 89.1050(h), 89.1050(h)(1), 89.1050(h)(2), 89.1050(h)(3), 89.1050(h)(5)

A decision of the committee concerning required elements of the IEP must be made by mutual agreement of the required members if possible.

When mutual agreement about all required elements of the IEP is not achieved, the ARD committee must:

- Offer the parents or adult student who disagrees a single opportunity to have the committee recess for a period of time not to exceed ten (10) school days:
 - Except 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 which may lead to a placement in an alternative education program (AEP);
- Provide a written statement of the basis for the disagreement;
- Offer the members who disagree the opportunity to write their own statements; and
- When the parent accepts the offer to reconvene, determine by mutual agreement prior to the recess, date, time, and place for continuing the ARD committee meeting.

During a 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.

When the ARD committee cannot reach mutual agreement (after the 10-day recess or when the parent refuses the 10-day recess) the LEA must:

- Provide the parent with prior written notice; and
- Implement the IEP which it has determined to be appropriate for the child.

AMENDMENT WITHOUT A MEETING

20 U.S.C. §§ 1414, 1415; 34 C.F.R. Part 300; 20 U.S.C. §§ 1414(b)(4)(A), 1414(d)(3)(F), 1414(e), 1415(k)(1)(E)(i); 34 C.F.R. Part 300.306, 300.116, 300.324(a)(4), 300.324(a)(6), 300.530(e)

After the annual ARD meeting, changes to the IEP may be made either:

- By the entire ARD committee; or
- By amending the IEP rather than by redrafting the entire IEP.

Eligibility determinations, changes of placement, and manifestation determination reviews may not be conducted through the amendment without a meeting process.

AMENDMENT PROCESS

20 U.S.C. § 1414(d)(3)(D); 34 C.F.R. Part 300.324(a)(4)(i)

To amend the IEP without an ARD committee meeting:

- The parent of a child with a disability and the LEA must agree not to convene an ARD committee meeting for the purpose of making changes to the IEP; and
- The LEA must develop a written document to amend or modify the child’s current IEP.

REVISED IEP

20 U.S.C. § 1414(d)(3)(F); 34 C.F.R. Part 300.324(a)(4)(ii), 300.324(a)(6)

If the IEP is amended without an ARD committee meeting, the ARD committee must be informed of those changes.

Upon request, a parent must be provided with a revised copy of the IEP with the amendments incorporated.

CONSENT AND PRIOR WRITTEN NOTICE

CONSENT

Consent means that:

- The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;
- The parent understands and agrees in writing to the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and
- The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time. A revocation of consent is not retroactive.

If the parent revokes consent in writing for his or her child's receipt of services after the child is initially provided special education and related services, **Arrow Academy** is not required to amend the child's education records to remove any references to the child's receipt of services because of the revocation of consent.

34 CFR 300.9.

LANGUAGE OF NOTICES

The procedural safeguards and prior notices described below must be written in a language understandable to the general public. The notice must be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

34 CFR 300.503(c), 300.504(d).

Electronic Delivery of Notices

A parent of a child with a disability may elect to receive required notices by electronic mail, if **Arrow Academy** makes that option available.

34 CFR 300.505.

NOTICE OF PROCEDURAL SAFEGUARDS

Arrow Academy shall provide a copy of the procedural safeguards to parents only once per year, except that a copy also shall be given to the parents:

- Upon initial referral or parental request for evaluation;
- Upon receipt of the first state complaint and upon receipt of the first due process complaint in a school year;
- On the date of a decision to make a disciplinary removal that is a change in placement; and
- Upon request by a parent.

Arrow Academy may also place a current copy of the procedural safeguards notice on its Internet website.

Contents of Notice

The notice shall include a full explanation of the procedural safeguards relating to:

- Independent educational evaluations;
- Prior written notice;
- Parental consent;
- Access to educational records;
- Opportunity to present and resolve complaints through the due process complaint and state complaint procedures, including:
 - The time period in which to file a complaint,
 - The opportunity for **Arrow Academy** to resolve the complaint; and
 - The difference between the due process complaint and the state complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures.
- The availability of mediation;
- The child's placement during pendency of any due process proceedings;
- Procedures for children who are subject to placement in an interim alternative educational setting;
- Requirements for unilateral placement by parents of children in private schools at public expense;
- Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations;
- Civil actions, including the time period in which to file such actions; and
- Attorneys' fees.

20 U.S.C. 1415(a)–(b), (d); 34 CFR 300.504(c).

PRIOR WRITTEN NOTICE AND CONSENT

Arrow Academy shall provide prior written notice to the parents within a reasonable time before the school proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of a child or the provision of a FAPE to the child.

34 CFR 300.503(a).

Notice must be provided to the parent in the parent's native language or other mode of communication at least five school days before **Arrow Academy** proposes or refuses the action, unless the parent agrees to a shorter time frame.

19 TAC 89.1050(h).

Contents of Notice

The notice must include:

- A description of the action proposed or refused by **Arrow Academy**;
- An explanation of why **Arrow Academy** proposes or refuses to take the action;
- A description of each evaluation procedure, assessment, record, or report **Arrow Academy** used as a basis for the proposed or refused action;
- A statement that the parents have protection under the procedural safeguards and, if this notice is not an initial referral for evaluation, the means by which a copy of the procedural safeguards can be obtained;
- Sources for parents to contact to obtain assistance in understanding the Individuals with Disabilities Education Act ("IDEA") rules;
- A description of other options the admission, review and dismissal ("ARD") committee considered and the reasons why those options were rejected; and
- A description of other factors relevant to **Arrow Academy's** proposal or refusal.

34 CFR 300.503(b).

Consent to Initial Evaluation

Before **Arrow Academy** conducts an initial evaluation, it shall provide prior written notice, including a description of any evaluation **Arrow Academy** proposes to conduct, and obtain informed consent for the evaluation from the parents.

20 U.S.C. 1414(a)(1)(D), (E); 34 CFR 300.304(a).

Consent to Services

Arrow Academy shall seek informed consent from the parent before providing special education and related services to a child.

20 U.S.C. 1414(a)(1)(D).

Consent to Reevaluation

Arrow Academy shall obtain informed parental consent before conducting any reevaluation of a child with a disability, except that such informed parental consent need not be obtained if **Arrow Academy** can demonstrate that it has taken reasonable measures to obtain such consent and the parent has failed to respond.

20 U.S.C. 1414(c)(3).

Psychological Examinations and Tests

On request of a child's parent, before obtaining the parent's consent under 20 U.S.C. Section 1414 for the administration of any psychological examination or test to the child as part of the evaluation of the child's need for special education, **Arrow Academy** shall provide to the child's parent:

- The name and type of the examination or test; and
- An explanation of how the examination or test will be used to develop an appropriate Individualized Education Program ("IEP") for the child.

If **Arrow Academy** determines that an additional examination or test is required for the evaluation of a child's need for special education after obtaining consent from the child's parent, **Arrow Academy** shall provide the information above to the parent regarding the additional examination or test and shall obtain additional consent for the examination of test.

Education Code 29.0041(a), (b).

CONSENT TO EXCUSE MEMBER FROM ATTENDING ARD COMMITTEE MEETING

A **Arrow Academy** member of the ARD committee may be excused from attending an individualized education program ("IEP") meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of curriculum or related services if the parent, in writing, and **Arrow Academy** consent to the excusal and the member submits, in writing, to the parent and the ARD committee, input into the development of the IEP before the meeting.

PARENTAL CONSENT TO ACCESS PUBLIC BENEFITS

Arrow Academy shall obtain informed consent from the parent each time that access to a parent's private insurance proceeds or to public benefits or an insurance program is sought.

34 CFR 300.154(d)(2)(iv)(A).

PARENTAL CONSENT FOR TRANSFER OF ASSISTIVE TECHNOLOGY DEVICES

Arrow Academy shall obtain informed consent from the parent or the adult student if the adult student has the legal capacity to enter into a contract before transferring an assistive technology device through a transfer agreement that incorporates the standards of the state.

OTHER CONSENT REQUIREMENTS

Parental consent is not required before **Arrow Academy** may:

- review existing data as part of the student's evaluation or a reevaluation; or

- give the student a test or other evaluation that is given to all students unless, before that test or evaluation, consent is required from parents of all students.

34 CFR 300.300(d)

PROCEDURAL SAFEGUARDS

The Superintendent or designee shall establish and maintain procedures to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of a free appropriate public education (“FAPE”).

20 U.S.C. 1415(a)–(b).

These procedures shall include:

- An opportunity for the parents to review all education records and to participate in meetings relating to the identification, evaluation, and educational placement of the child and the provision of FAPE to the child. *34 CFR 300.501.*
- An opportunity for the parents to obtain an independent educational evaluation of the child. *34 CFR 300.502.*
- Assignment of an individual to act as a surrogate for the parent when no parent can be identified, **Arrow Academy** cannot locate the parents, or the child is a ward of the state. *34 CFR 300.519.*
- Prior written notice to the parents whenever **Arrow Academy** proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child. *34 CFR 300.503.*
- Procedures to allow parties to resolve disputes through a mediation process. *34 CFR 300.506.*
- An opportunity for any party to file a due process complaint on any matter relating to the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child. *34 CFR 300.507.*
- Procedures that require either party, or the attorney representing a party, to provide the other party a due process complaint (which shall remain confidential). *34 CFR 300.508.*
-

LANGUAGE OF NOTICES

The procedural safeguards and prior written notices described below must be written in a language understandable to the general public. The notice must be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

34 CFR 300.503(c), 300.504(d).

Electronic Delivery of Notices

A parent who has a child with a disability may elect to receive required notices required by 34 CFR 300.503, 300.504 and 300.508 by electronic mail, if **Arrow Academy** makes that option available.

34 CFR 300.505.

Notice of Procedural Safeguards

Arrow Academy shall provide a copy of the procedural safeguards to parents only once per year, except that a copy also shall be given to the parents:

- Upon initial referral or parental request for evaluation;
- Upon receipt of the first state complaint and upon receipt of the first due process complaint in a school year;
- On the date of a decision to make a disciplinary removal that is a change in placement; and
- Upon request by a parent.

Arrow Academy may also place a current copy of the procedural safeguards notice on its Internet website.

Contents of Notice

The notice shall include a full explanation of the procedural safeguards relating to:

- Independent educational evaluations;
- Prior written notice;
- Parental consent;
- Access to educational records;
- Opportunity to present and resolve complaints through the due process complaint and state complaint procedures, including:
 - The time period in which to file a complaint,
 - The opportunity for **Arrow Academy** to resolve the complaint; and
 - The difference between the due process complaint and the state complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional timelines, and relevant procedures.
- The availability of mediation;
- The child's placement during pendency of any due process proceedings;
- Procedures for children who are subject to placement in an interim alternative educational setting;
- Requirements for unilateral placement by parents of children in private schools at public expense;
- Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations;
- Civil actions, including the time period in which to file such actions; and
- Attorneys' fees.

20 U.S.C. 1415(a)–(b), (d); 34 CFR 300.504(c).

DISPUTE RESOLUTION

The possible options for resolving disputes that arise between a parent and **Arrow Academy** relating to the identification, evaluation, or educational placement of or the provision of FAPE to a student with a disability include, but are not limited to:

- ARD committee meetings, including IEP facilitation if offered by **Arrow Academy**, under 19 TAC 89.1196;
- Meetings or conferences with the student’s teachers;
- Meetings or conferences, subject to **Arrow Academy** policies, with the principal, special education director, Superintendent, or Board;
- Requesting state IEP facilitation in accordance with 19 TAC 89.1197 (relating to State Individualized Education Program Facilitation);
- Requesting mediation through the Texas Education Agency (“TEA”) in accordance with 34 CFR 300.506;
- Filing a complaint with TEA in accordance with 34 CFR 300.153; or
- Requesting a due process hearing through TEA in accordance with 34 CFR 300.507-300.514.

19 TAC 89.1150.

DUE PROCESS COMPLAINT

Whenever a due process complaint has been received by **Arrow Academy**, the parent shall have an opportunity for an impartial due process hearing, which shall be conducted by TEA.

Time Limits

- *Due Process Complaints Filed Before September 1, 2022:*

A due process complaint filed before September 1, 2022 must set forth an alleged violation that occurred not more than one year before the date the parent or **Arrow Academy** knew or should have known about the alleged action that forms the basis of the complaint.

20 U.S.C. 1415(f)(1)(A); 19 TAC 89.1151(c).

- *Due Process Complaints Filed On or After September 1, 2022:*

A due process complaint filed on or after September 1, 2022 must set forth an alleged violation that occurred not more than two years before the date the parent or **Arrow Academy** knew or should have known about the alleged action that forms the basis of the complaint.

20 U.S.C. 1415(f)(1)(A); Education Code 29.0164.

Exceptions

These time limits shall not apply if the parent was prevented from requesting a hearing due to:

- A specific misrepresentation by **Arrow Academy** that it had resolved the problem forming the basis of the complaint; or
- **Arrow Academy**'s withholding of information from the parent that **Arrow Academy** was required by the IDEA to provide.

20 U.S.C. 1415(f)(3)(D); 34 CFR 300.511(f); 19 TAC 89.1151(d).

“Stay Put”

During the pendency of any administrative or judicial proceeding regarding a due process complaint notice requesting a due process hearing, the child shall remain in the then-current educational placement unless **Arrow Academy** and the parent agree otherwise. If the child is applying for initial admission to a public school, the child shall, with the consent of the parents, be placed in the public school program until all proceedings have been completed.

20 U.S.C. 1415(j); 34 CFR 300.518, 300.533.

Exception

When a due process hearing has been requested by a parent or **Arrow Academy** concerning a disciplinary change of placement or manifestation determination, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the child's assignment to the alternative setting, or the 45-day timeline, if applicable, whichever occurs first, unless the parent and **Arrow Academy** agree otherwise.

20 U.S.C. 1415(k)(3)(A), 1415(k)(4)(A); 34 CFR 300.533.

Resolution Process

Within 15 days of receiving notice of a parent's due process complaint, and before initiating a due process hearing under 34 CFR 300.511, **Arrow Academy** shall convene a meeting with the parent and the relevant member or members of the ARD committee. The purpose of the meeting is for the parent to discuss the due process complaint and the facts that form the basis of the due process complaint, so that **Arrow Academy** has the opportunity to resolve the dispute.

The meeting need not be held if the parent and **Arrow Academy** agree in writing to waive the meeting, or the parent and **Arrow Academy** agree to use the mediation process.

If **Arrow Academy** has not resolved the due process complaint to the satisfaction of the parent within 30 days of the receipt of the complaint, the due process hearing may occur. If **Arrow Academy** is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made, **Arrow Academy** may, at the conclusion of the 30-day period, request that a hearing officer dismiss the parent's due process complaint.

34 CFR 300.510.

TRANSFER OF RIGHTS TO ADULT STUDENTS

When a student reaches the age of 18, **Arrow Academy** shall notify the student and the parents of the transfer of parental rights. This notice is separate and distinct from the requirement that, beginning at least one year before the student reaches the age of 18, the student's IEP include a statement regarding transfer of parental rights.

A student with a disability who is 18 years of age or older or whose disabilities of minority have been removed for general purposes under Chapter 31, Family Code, shall have the same right to make educational decisions as a student without a disability. All other rights accorded to parents under Chapter 29, Subchapter A of the Education Code or 20 U.S.C. 1415 transfer to the student.

34 CFR 300.520; Education Code 29.017(a)–(b); 19 TAC 89.1049(c).

Transfer Students

SPECIAL EDUCATION VERIFICATION

For purposes of the requirements set forth in this Policy, “verify” means that the new school district has received a copy of the student's individualized education program (“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 set forth in 19 TAC 89.1055(s)(1), (2).

19 TAC 89.1055(s)(6).

STUDENTS WHO TRANSFER WITH AN IEP DURING THE SAME SCHOOL YEAR

In accordance with 34 CFR 300.323(g), **Arrow Academy** shall take reasonable steps to promptly obtain the student's records from a previous school or district in order to facilitate the student's transition, and for students transferring from **Arrow Academy**, **Arrow Academy** will furnish a copy of the student's records, including the student's special education records, to the student's new school not later than the 10th working day after the date **Arrow Academy** received the request for information.

34 CFR 300.323(g); TEC 25.002; 19 TAC 89.1055(s)(4).

Texas Transfers

When a student transfers to **Arrow Academy** from another school district within Texas, **Arrow Academy** shall provide a free appropriate public education (“FAPE”) to the student. **Arrow Academy** shall provide comparable services as those described in the IEP the student transferred with until **Arrow Academy** adopts the student's IEP from the previous school, or develops, adopts, and implements a new IEP. **Arrow Academy** must either adopt the student's IEP from the previous school district or develop, adopt, and implement a new IEP within 20 school days from the date the student is verified as being a student eligible for special education services.

34 CFR 300.323(e), (g); 19 TAC 89.1055(s)(1).

Out-of-State Transfers

If the student with a disability transfers to **Arrow Academy** from a school district outside of Texas and the parents or previous school district verifies that the student had an IEP that was in effect in the previous district, **Arrow Academy** shall provide the student with FAPE, including comparable services, until **Arrow Academy** conducts an evaluation, if appropriate, and develops, adopts, and implements a new IEP.

If **Arrow Academy** determines that an evaluation is necessary, the evaluation is considered a full individual and initial evaluation and must be completed within the timelines established by 19 TAC 89.1011.

If **Arrow Academy** determines that an evaluation is not necessary, **Arrow Academy** shall develop, adopt, and implement a new IEP within 20 school days from the date the student is verified as being a student eligible for special education services.

34 CFR 300.323(f); 19 TAC 89.1055(s)(2).

Comparable Services Pending Verification

While **Arrow Academy** waits for verification, **Arrow Academy** 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 **Arrow Academy** has been informed by the previous school district of the student's special education and related services and placement.

19 TAC 89.1055(s)(7).

Comparable Services Following Verification

Once **Arrow Academy** receives verification that the student had an IEP in effect at the previous district, **Arrow Academy** shall provide comparable services to the student during the timelines established under subparagraphs (a) and (b) of this Section. Comparable services include provision of Extended School Year ("ESY") services if those services are identified in the previous IEP or if **Arrow Academy** has reason to believe that the student would be eligible for ESY services.

19 TAC 89.1055(s)(8).

Requirements If Unable to Obtain Verification

If a parent hasn't already provided verification of eligibility and the **Arrow Academy** has been unable to obtain the necessary verification records from the previous district by the 15th working day after the date **Arrow Academy** submitted a request for the records to the previous district, **Arrow Academy** shall seek verification from the student's parent. Nothing prohibits **Arrow Academy** from asking the parent to provide verification of eligibility before that date. If the parent is unwilling or unable to provide such verification, **Arrow Academy** shall 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 **Arrow Academy**.

19 TAC 89.1055(s)(5).

STUDENTS WHO TRANSFER WITH AN IEP DURING THE SUMMER

A student with a disability who has an IEP in place from a previous in- or out-of-state school district and who enrolls in a new local educational agency ("LEA") during the summer when students are not in attendance for instructional purposes is not considered a transfer student for the purposes of 34 CFR 300.323(e) or (f) and corresponding state law and/or regulations. The provisions in 19 TAC 89.1055(s)(1) shall apply if the student comes from an in-state school district, and the provisions in 19 TAC 1055(s)(2) shall apply if the student comes from an out-of-state district.

19 TAC 89.1055(s)(7).

INCARCERATED STUDENTS

20 U.S.C. §§ 1412, 1414, 1415; 34 C.F.R. Part 300

Limitations to a Free Appropriate Public Education (FAPE)

20 U.S.C. §§ 1412(a)(1)(A), 1412(a)(1)(B)(ii), 1412(a)(1)(B)(ii)(I), 1412(a)(1)(B)(ii)(II); 34 C.F.R. Part 300.8, 300.101(a), 300.102(a)(2)(i), 300.102(a)(2)(i)(A), 300.102(a)(2)(i)(B), 300.102(a)(2)(ii)(A), 300.102(a)(2)(ii)(B)

The obligation to make a FAPE available to all children with disabilities does not apply to children aged eighteen (18) through twenty-one (21) whom, in the last educational placement prior to incarceration in an adult correctional facility:

- Were not actually identified as being a child with a disability; and
- Did not have an IEP.

The obligation to make a FAPE available to children with disabilities aged eighteen (18) through twenty-one (21) does apply to children who:

- Had been identified as a child with a disability and had received services in accordance with an IEP, but who left school prior to their incarceration; or
- Did not have an IEP in their last educational setting, but who had actually been identified as a child with a disability.

CHILDREN IN ADULT PRISONS

20 U.S.C. §§ 1412(a)(5)(A), 1414(d)(1)(A), 1414(d)(7)(A)(i), 1414(d)(7)(A)(ii), 1414(d)(7)(B); 34 C.F.R. Part 300.324(d)(1), 300.324(d)(1)(i), 300.324(d)(1)(ii), 300.324(d)(2)

For children with disabilities who are convicted as adults under state law and incarcerated in adult prisons:

- The requirements related to State and District-wide Assessments do not apply; and
- The requirements related to transition services do not apply with respect to children whose age eligibility under the IDEA will end before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.

If the state has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated, the child’s admission, review, and dismissal committee may modify the child’s IEP or placement notwithstanding the least restrictive environment and IEP content requirements of the IDEA.

TRANSFER OF PARENTAL RIGHTS

20 U.S.C. §§ 1415(m)(1), 1415(m)(1)(D); 34 C.F.R. Part 300.520(a)(2)

All rights accorded to parents under the IDEA, including the right to receive notice, transfer to adult students at age eighteen (18) who are incarcerated in an adult or juvenile federal, state, or local correctional institution, unless the parent or other individual has been granted guardianship under the Texas Probate Code.

Notice of the transfer of parental rights to the incarcerated student must be given to the parent and the incarcerated student (which need not contain the elements of prior written notice, but must include a statement that parental rights have transferred to the adult student and provide contact information for the parties to use in obtaining additional information).

The local educational agency must comply with the Adult Student guidelines.

PRIVATE SCHOOLS

20 U.S.C. §§ 1401, 1412; 34 C.F.R. Parts 77, 300; 19 TAC Chapter 89; TEA Guidance on Parentally-Placed Private School Children with Disabilities

This legal framework applies to parentally-placed private school children with disabilities.

DEFINITIONS

The term “parentally-placed private school children with disabilities” means children with disabilities enrolled by their parents in a private, including religious, school or facility that meets the definition of “elementary school” or “secondary school.”

The term “elementary school” means a nonprofit institutional day or residential school, including a public elementary charter school that provides elementary education, as determined under state law.

The term “secondary school” means a nonprofit institutional day or residential school, including a public secondary charter school that provides secondary education, as determined under state law, except that it does not include any education beyond grade twelve (12).

The term “nonprofit,” as applied to an agency, organization, or institution, means that it is owned or operated by one or more corporations or associations whose net earnings do not benefit, and cannot lawfully benefit, any private shareholder or entity.

The term “services plan” means a written statement that describes the special education and related services the local educational agency (LEA) will provide to the parentally-placed private school child

with a disability who has been designated to receive services, including the location of the services and any transportation necessary.

CHILD FIND PRIVATE SCHOOL STUDENTS

Arrow Academy shall coordinate with home school districts, who are primarily responsible for consulting with private school representatives, regarding the child find process and the provision of special education and related services to children enrolled in private schools within **Arrow Academy's** boundaries.

Arrow Academy shall undertake activities similar to those undertaken for children enrolled in public schools and shall complete the child find process for children enrolled in private schools in a time period comparable to that for other students attending the public schools within **Arrow Academy's** boundaries.

20 U.S.C. 1412(a)(10)(A)(ii)–(iv).

SPECIAL EDUCATION STUDENTS PLACED IN PRIVATE SCHOOL

Placement by Arrow Academy

If **Arrow Academy** places a child with a disability in a private school or facility, or refers the child to a private school or facility, as a means of carrying out the requirements of the special education laws, **Arrow Academy** shall ensure that the child is provided special education and related services, in accordance with an individualized education program (“IEP”), at no cost to the parents.

20 U.S.C. 1412(a)(10)(B)(i).

Placement by the Parent

When a student with a disability who has been placed by his or her parent directly in a private school is referred to **Arrow Academy**, **Arrow Academy** shall convene an admission, review, and dismissal (“ARD”) committee to determine whether **Arrow Academy** can offer the child a free appropriate public education (“FAPE”). If **Arrow Academy** determines that it can offer a FAPE to the student, **Arrow Academy** is not responsible for providing educational services to the student, except as provided in 34 CFR 300.130–300.144 or 19 TAC 89.1096(e), until such time as the parents choose to enroll the student in **Arrow Academy** full time.

19 TAC 89.1096(b).

REJECTION OF OFFER OF FAPE

Student Receives ISP

If **Arrow Academy** offers to provide a FAPE to a child with a disability and the parents elect to place the child in a private school or facility, **Arrow Academy** is not required to pay for the cost of education, including special education and related services. However, **Arrow Academy** must develop and implement an individualized services plan (“ISP”) for the child.

20 U.S.C. 1412(a)(10)(C)(i); 34 CFR 300.148(a).
Reimbursement

If the parents of a child with a disability, who previously received special education and related services under the authority of **Arrow Academy**, enroll the child in a private school without the consent or referral by **Arrow Academy**, a court or a hearing officer may require **Arrow Academy** to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that **Arrow Academy** had not made a FAPE available to the child in a timely manner before the enrollment.

20 U.S.C. 1412(a)(10)(C)(ii); 34 CFR 300.148(c).

CONSULTATION

20 U.S.C. §§ 1412(a)(10)(A)(iii), 1412(a)(10)(A)(iii)(I), 1412(a)(10)(A)(iii)(II), 1412(a)(10)(A)(iii)(III), 1412(a)(10)(A)(iii)(IV), 1412(a)(10)(A)(iii)(V); 34 C.F.R. § 300.134(a)(c)(d)(1)(e)

The LEA must consult with private school representatives and representatives of parents of parentally-placed private school children with disabilities during the design and development of special education and related services for the children regarding:

WRITTEN AFFIRMATION

20 U.S.C. § 1412(a)(10)(A)(iv); 34 C.F.R. § 300.135(a)(b)

When timely and meaningful consultation has occurred, the LEA must:

- Obtain a written affirmation signed by the representatives of participating private schools; or
- If such representatives do not provide written affirmation within a reasonable period of time, forward the documentation of the consultation process to the TEA.

DEVELOPING THE PROPORTIONATE SHARE SERVICES PLAN

34 C.F.R. §§ 300.132(b), 300.137(b)(c)(1)(2), 300.138(a)(2)(b)(1-2); 19 TAC § 89.1096(d)

After ensuring timely and meaningful consultation, the LEA must make the final decisions with respect to the services to be provided to eligible parentally-placed private school children with disabilities.

If the LEA in which the private school is located designates a parentally-placed private school child, including an eligible child, ages three (3) or four (4), whose parents declined dual enrollment, to receive special education and related services, the LEA must:

- Initiate and conduct meetings to develop, review, and revise a services plan for the child that describes the specific special education and related services that the child will receive in light of the services the LEA determined it would make available to parentally-placed private school children with disabilities;
- Ensure that a representative of the religious or other private school attends the meeting; and
- Use other methods to ensure the participation by the religious or other private school, including individual or conference telephone calls if the representative cannot attend.

Parentally-placed private school children with disabilities may receive a different amount of services than children with disabilities in public schools.

IMPLEMENTATION OF THE PROPORTIONATE SHARE SERVICES PLAN

34 C.F.R. § 300.139(a); 20 U.S.C. § 1412(a)(10)(A)(i)

When providing special education and related services for parentally-placed private school children with disabilities, the LEA must comply with the Proportionate Share Funding for Parentally-Placed Private School Child and Administration of Equipment guidelines.

Services may be provided on the premises of private, including religious, schools, to the extent consistent with law.

USE OF PERSONNEL TO PROVIDE PROPORTIONATE SHARE SERVICES

34 C.F.R. §§ 300.138(c), 300.142(a)(1)(2); 20 U.S.C. § 1412 (a)(10)(A)(vi)(I)(bb)

The LEA must provide proportionate share services to parentally-placed private school children with disabilities:

- By employees of the LEA; or
- Through a contract with an individual, association, agency, organization, or other entity.

The LEA may use funds to make public school personnel available in locations other than public facilities consistent with the Proportionate Share Funding for Parentally-Placed Private School Child guidelines:

- To the extent necessary to provide services for parentally-placed private school children with disabilities; and
- If those services are not normally provided by the private school.

The LEA may use funds consistent with the Use of IDEA Part B Formula Amounts in General framework to pay for services of an employee of a private school to provide services for parentally-placed private school children with disabilities, if the employee performs the services:

- Outside of his or her regular hours of duty; and
- Under public supervision and control.

When LEA personnel provide proportionate share services to parentally-placed private school children with disabilities, the LEA must comply with the Highly Qualified Special Education Teachers requirements.

When private elementary school or secondary school teachers provide proportionate share services to parentally-placed private school children with disabilities, the private school teachers do not have to meet the Highly Qualified Special Education Teachers requirements.

TRANSPORTATION SERVICES

If necessary for the parentally-placed private school child with a disability to benefit from or participate in the services determined in compliance with this framework, transportation must be provided:

- From the child's school or the child's home to a site other than the private school; and
- From the service site to the private school, or to the child's home, depending on the timing of the services.

The LEA is not required to provide transportation from the child's home to the private school.

The LEA must provide special transportation with federal funds only when the ARD committee determines that the condition of the child warrants the service in order for the child to receive the special education and related services (if any) set forth in IEP, and in compliance with the Funding guidelines.

CONFIDENTIALITY

The LEA must comply with the Consent for Disclosure of Confidential Information guidelines.

RIGHT OF THE PRIVATE SCHOOL OFFICIAL TO SUBMIT A COMPLAINT

20 U.S.C. §§ 1412(a)(10)(A)(v)(I), 1412(a)(10)(A)(v)(II)

A private school official has the right to submit a complaint to the TEA that the LEA did not:

- Engage in consultation that was meaningful and timely; or
- Give due consideration to the views of the private school official.

The complaining private school official must provide the basis of the noncompliance to the TEA.

The LEA must forward the appropriate documentation to the TEA.

If the private school official is dissatisfied with the TEA's decision, the official may submit a complaint to the United States secretary of education by providing basis of the noncompliance.

If a complaint is submitted to the United States Secretary of Education, the TEA will forward the appropriate documentation to the secretary.

DUAL ENROLLMENT

19 TAC §§ 89.1096(a)(1)(A)(B), 89.1096(c)(1)(2), 89.1096(d), 89.1096(f)

Parents of an eligible child ages three (3) or four (4) have the right to "dual enroll" their child in both public and private school:

- Beginning on the child's third (3rd) birthday; and
- Continuing until whichever comes first:

- The end of the school year in which the child turns five (5); or
- The child is eligible to attend the LEA's kindergarten program.

The term "private school" is defined as a private elementary or secondary school, including any preschool, religious school, and institutional day or residential school that:

- Is a nonprofit entity; and
- 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 children's progress.

In order to be considered a private school, a home school must provide 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 children's progress, but is not required to be a nonprofit entity.

The LEA where the child resides is responsible for providing special education and related services to the child whose parents choose dual enrollment.

The LEA must comply with the ARD Committee guidelines.

The child's ARD committee must develop an IEP designed to provide the child with a FAPE in the least restrictive environment appropriate for the child.

From the IEP, the parent and the LEA must determine, based on the requirements concerning placement in the Least Restrictive Environment guidelines and the policies and procedures of the LEA:

- Which special education and/or related services will be provided to the child; and
- The location where those services will be provided.

Complaints regarding the implementation of the components of the child's IEP that have been selected by the parent and the LEA may be filed with the TEA.

The procedures relating to due process hearings do not apply to complaints regarding the implementation of the components of the child's IEP that have been selected by the parent and the LEA.

PRIVATE SCHOOL PLACEMENT WHEN FAPE IS AT ISSUE

34 C.F.R. § 300.148

When parents elect to place a child with a disability in a private school or facility due to disagreements about FAPE, additional protections apply under the procedural safeguards.

Discipline

PART I: DISCIPLINE OF STUDENTS WITH DISABILITIES UNDER SECTION 504

STUDENTS WITH DISABILITIES UNDER SECTION 504

Arrow Academy shall conduct an evaluation in accordance with 34 C.F.R. 104.35(b) before taking any action with respect to any significant change in placement of a student with a disability who needs or is believed to need special education and related services.

34 CFR 104.35(a).

Arrow Academy may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any student with a disability who is currently engaging in the illegal use of drugs or alcohol to the same extent that **Arrow Academy** would take disciplinary action against nondisabled students. The due process procedures afforded under Section 504 do not apply to such disciplinary action.

29 U.S.C. 705(20)(C)(iv).

PART II: DISCIPLINE OF STUDENTS RECEIVING SPECIAL EDUCATION SERVICES

SPECIAL EDUCATION STUDENTS

Except as set forth below, the placement of a student with a disability who receives special education services may be made only by a duly constituted admission, review, and dismissal (“ARD”) committee. Any disciplinary action shall be determined in accordance with federal law and regulations, including those requiring the provision of:

1. functional behavioral assessments (“FBAs”);
2. positive behavioral interventions, strategies, and supports;
3. behavioral intervention plans/behavior improvement plans (“BIPs”); and
4. the manifestation determination review (“MDR”).

Education Code 37.004(b).

REMOVAL FOR TEN DAYS OR LESS

A student with a disability who violates the **Arrow Academy** Student Code of Conduct may be moved from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than ten consecutive school days, to the extent those alternatives are applied to children without disabilities.

20 U.S.C. 1415(k)(1)(B); 34 C.F.R. 300.530(b)(1).

Services During Removal for Ten Days or Less. **Arrow Academy** is required to provide services during the period of removal if **Arrow Academy** provides services to a child without disabilities who is similarly removed.

34 C.F.R. 300.530(d).

SUBSEQUENT REMOVALS OF TEN DAYS OR LESS

Arrow Academy personnel may remove the student for additional removals of not more than ten consecutive school days in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change in placement under 34 CFR 300.536.

34 C.F.R. 300.530(b)(1).

Services During Subsequent Removals of Ten Days or Less. After a student has been removed from his or her current placement for ten school days in the same school year, during any subsequent removal of ten consecutive school days or less, school personnel, in consultation with at least one of the student's teachers, shall determine the extent to which services are needed so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's individualized education program ("IEP").

20 U.S.C. 1415(k)(1)(D); 34 C.F.R. 300.530(d)(4).

NOTICE OF PROCEDURAL SAFEGUARDS

Not later than the date on which the decision to take the disciplinary action is made, **Arrow Academy** shall notify the student's parents of the decision and of all procedural safeguards.

20 U.S.C. 1415(k)(1)(H).

CHANGES IN PLACEMENT

Any disciplinary action that would constitute a change in placement may be taken only after the student's ARD committee conducts an MDR.

For purposes of disciplinary removal of a student with a disability, a change in placement occurs if a student is:

- Removed from the student's current educational placement for more than ten consecutive school days; or
- Subjected to a series of removals that constitute a pattern because:
 - The series of removals total more than ten school days in a school year;
 - The student's behavior is substantially similar to the student's behavior in the previous incidents that resulted in the series of removals; and
 - Additional factors exist, such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another.

Arrow Academy determines, on a case-by-case basis, whether a pattern of removals constitutes a change in placement. **Arrow Academy's** determination is subject to review through due process and judicial proceedings.

34 C.F.R. 300.536.

Arrow Academy personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a student who violates the Student Code of Conduct.

20 U.S.C. 1415(k)(1)(A).

MANIFESTATION DETERMINATION

Within ten school days of any decision to change the placement of a student because of a violation of the Student Code of Conduct, **Arrow Academy**, parents, and relevant members of the ARD committee (as determined by the parent and **Arrow Academy**) shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents to determine whether the conduct in question was:

- Caused by, or had a direct and substantial relationship to, the student's disability; or
- The direct result of **Arrow Academy's** failure to implement the IEP.

If **Arrow Academy**, the parent, and relevant members of the ARD committee determine that either of the above is applicable, the conduct shall be determined to be a manifestation of the student's disability.

20 U.S.C. 1415(k)(1)(E); 34 C.F.R. 300.530(e).

Not a Manifestation

If the determination is that the student's behavior was not a manifestation of the student's disability, school personnel may apply the relevant disciplinary procedures to the student in the same manner and for the same duration as for students without disabilities. The ARD committee shall determine the interim alternative educational setting.

20 U.S.C. 1415(k)(1)(C), (k)(2); 34 C.F.R. 300.530(c).

Services During Removal

The student must:

- Continue to receive educational services so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals in the student's IEP; and
- Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

These services may be provided in an interim alternative educational setting.

34 C.F.R. 300.530(d)(1)–(2).

Manifestation

If **Arrow Academy**, the parents, and relevant members of the ARD committee determine that the conduct was a manifestation of the student's disability, the ARD committee shall:

1. Conduct an FBA, unless **Arrow Academy** had conducted an FBA before the behavior that resulted in the change in placement occurred, and implement an BIP for the student; or
2. If a BIP has already been developed, review the BIP and modify it, as necessary, to address the behavior.

Except as provided at SPECIAL CIRCUMSTANCES below, the ARD committee shall return the student to the placement from which the student was removed, unless the parent, and **Arrow Academy** agree to a change in placement as part of the modification of the BIP.

20 U.S.C. 1415(k)(1)(F); 34 C.F.R. 300.530(f).

i. Special Circumstances

Arrow Academy personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability, if the student:

- Carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of Texas Education Agency (the "TEA") or **Arrow Academy**; or
- Knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of the TEA or **Arrow Academy**;
- Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the TEA or **Arrow Academy**.

20 U.S.C. 1415(k)(1)(G); 34 C.F.R. 300.530(g).

The ARD committee shall determine the interim alternative education setting.

20 U.S.C. 1415(k)(2).

Services During Removal

The student must:

1. Continue to receive educational services so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals in the student's IEP.

2. Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

These services may be provided in an interim alternative educational setting.

34 C.F.R. 300.530(d)(1).

APPEALS

A parent who disagrees with a placement decision or the manifestation determination may request a hearing. Additionally, **Arrow Academy** may request a hearing if it believes that maintaining a current placement of a student is substantially likely to result in injury to the student or others.

20 U.S.C. 1415(k)(3)(A); 34 C.F.R. 300.532(a); 19 TAC 89.1151.

Placement During Appeals

When an appeal has been requested by a parent or **Arrow Academy**, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the student's assignment to the alternative setting, whichever occurs first, unless the parent and **Arrow Academy** agree otherwise.

20 U.S.C. 1415(k)(4); 34 C.F.R. 300.533.

REPORTING CRIMES

Federal law does not prohibit **Arrow Academy** from reporting a crime committed by a student with a disability to appropriate authorities. If **Arrow Academy** reports a crime, **Arrow Academy** shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom **Arrow Academy** reported the crime. **Arrow Academy** may transmit records only to the extent permitted by the Family Educational Rights and Privacy Act ("FERPA").

20 U.S.C. 1415(k)(6); 34 C.F.R. 300.535.

STUDENTS NOT YET IDENTIFIED

A student who has not been determined to be eligible for special education and related services and who has engaged in behavior that violated the Student Code of Conduct may assert any of the protections provided for in the Individuals with Disabilities Education Act if **Arrow Academy** had knowledge that the student had a disability before the behavior that precipitated that disciplinary action occurred.

20 U.S.C. 1415(k)(5)(A); 34 C.F.R. 300.534(a).

School Knowledge

Arrow Academy shall be deemed to have knowledge that a student has a disability if, before the behavior that precipitated the disciplinary action occurred:

- The parent of the student expressed concern in writing to **Arrow Academy** supervisory or administrative personnel, or to the teacher of the student, that the student was in need of special education and related services;
- The parent requested an evaluation of the student for special education and related services; or
- The student's teacher, or other **Arrow Academy** personnel, expressed specific concerns about a pattern of behavior demonstrated by the student directly to the special education director or to other **Arrow Academy** supervisory personnel.

20 U.S.C. 1415(k)(5)(B); 34 C.F.R. 300.534(b).

Exceptions

Arrow Academy shall not be deemed to have knowledge that the student had a disability if:

- The parent has not allowed an evaluation of the student;
- The parent has refused services; or
- The student has been evaluated and it was determined that the student did not have a disability.

20 U.S.C. 1415(k)(5)(C); 34 C.F.R. 300.534(c).

If **Arrow Academy** does not have knowledge, before taking disciplinary measures, that a student has a disability, the student may be subjected to the same disciplinary measures applied to students without disabilities who engaged in comparable behaviors.

However, if a request is made for an evaluation during the time period in which the student is subjected to disciplinary measures, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

RESTRAINT AND TIME-OUT

Texas Education Code; Texas Penal Code; 19 TAC Chapter 89; 19 TAC §§ 89.1053(j), 89.1053(l); TEC § 37.0021(g)

BEHAVIOR MANAGEMENT TECHNIQUES

It is **Arrow Academy's** policy to treat all students with dignity and respect, including students with disabilities who receive special education services. Any behavior management technique and/or discipline management practice must be implemented in such a way as to protect the health and safety of the student and others. No discipline management practice may be calculated to inflict injury, cause harm, demean, or deprive the student of basic human necessities.

Education Code 37.0021(a); 19 TAC 89.1053(a), (j).

Exceptions. Education Code 37.0021 (regarding use of confinement, seclusion, restraint, and time-out) does not apply to:

- A peace officer, while performing law enforcement duties, except as provided by Education Code 37.0021(i); and
- An educational services provider with whom a student is placed by a judicial authority unless the services are provided in a **Arrow Academy** educational program.

Education Code 37.0021(g).

CONFINEMENT

A student with a disability who receives special education services may not be confined in a locked box, locked closet, or other specially designed locked space as either a discipline management practice or a behavior management technique.

Education Code 37.0021(a).

Education Code 37.0021 does not prevent a student's locked, unattended confinement in an emergency situation while awaiting the arrival of law enforcement personnel if:

- The student possesses a weapon; and
- The confinement is necessary to prevent the student from causing bodily harm to the student or another person.

For these purposes, "weapon" includes any weapon described under Education Code 37.007(a)(1).

Education Code 37.0021(f), 37.007(a)(1); Penal Code 46.01(1), (3), (6), 46.05.

SECLUSION

A **Arrow Academy** employee or volunteer or an independent contractor of **Arrow Academy** may not place a student in seclusion. "Seclusion" means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that:

- Is designed solely to seclude a person; and
- Contains less than 50 square feet of space.

Education Code 37.0021(b)(2), (c).

RESTRAINT

A **Arrow Academy** employee, volunteer, or independent contractor may use restraint only in an emergency and with the following limitations:

- Restraint shall be limited to the use of such reasonable force as is necessary to address the emergency.
- Restraint shall be discontinued at the point at which the emergency no longer exists.

- Restraint shall be implemented in such a way as to protect the health and safety of the student and others.
- Restraint shall not deprive the student of basic human necessities.

19 TAC 89.1053(c).

Definitions

“Restraint” means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of a student’s body.

Education Code 37.0021(b)(1); 19 TAC 89.1053(b)(2).

“Restraint” does not include the use of:

1. Physical contact or appropriately prescribed adaptive equipment to promote normative body positioning and/or physical functioning;
2. Limited physical contact with a child to promote safety (e.g., holding a student’s hand), to prevent a potentially harmful action (e.g., running into the street), to teach a skill, or to provide comfort;
3. Limited physical contact or appropriately prescribed adaptive equipment to prevent a child from engaging in ongoing, repetitive self-injurious behaviors; or
4. Seat belts and other safety equipment used to secure children during transportation.

19 TAC 89.1053(f).

“Emergency” means a situation in which a student’s behavior poses a threat of:

1. Imminent, serious physical harm to the student or others; or
2. Imminent, serious property destruction.

19 TAC 89.1053(b)(1).

Training

Training for **Arrow Academy** employees, volunteers, or independent contractors regarding the use of restraint shall be provided according to the requirements set forth at 19 TAC 89.1053(d).

Data Reporting

Cumulative data regarding the use of restraint must be electronically reported through the Public Education Information Management System in accordance with reporting standards specified by the Texas Education Agency.

Education Code 37.0021(i); 19 TAC 89.1053(f),(k).

Documentation

In a case in which restraint is used by **Arrow Academy** employees, volunteers, or independent contractors, **Arrow Academy** shall comply with the documentation requirements set forth at 19 TAC 89.1053(e).

TIME-OUT

A **Arrow Academy** employee, volunteer, or independent contractor may use time-out with the following limitations:

- Physical force or threat of physical force shall not be used to place a student in time-out;
- Time-out must only be used in conjunction with an array of positive behavior intervention strategies and techniques and must be included in the student's individualized education program ("IEP") and/or behavior intervention plan ("BIP") if it is utilized on a recurrent basis to increase or decrease targeted behavior; and
- Use of time-out shall not be implemented in a fashion that precludes the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.

19 TAC 89.1053(b)(3), (g).

"Time-out" means a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:

- That is not locked; and
- From which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.

Education Code 37.0021(b)(3); 19 TAC 89.1053(b)(3).

Training

Training for **Arrow Academy** employees, volunteers, or independent contractors regarding the use of time-out shall be provided according to the requirements set forth at 19 TAC 89.1053(h).

Documentation

Necessary documentation or data collection regarding the use of time-out, if any, must be addressed in the IEP or BIP. The ARD committee must use any collected data to judge the effectiveness of the intervention and provide a basis for making determinations regarding its continued use.

19 TAC 89.1053(i).

PROHIBITED AVERSIVE TECHNIQUES

Arrow Academy and employees, volunteers, and independent contractor of **Arrow Academy** may not apply an aversive technique, or by authorization, order, or consent, cause an aversive technique to be applied, to a child.

Education Code 37.0023(b).

“Aversive technique” means a technique or intervention that is intended to reduce the likelihood of a behavior reoccurring by intentionally inflicting on a student significant physical or emotional discomfort or pain. The term includes a technique or intervention that:

- is designed to or likely to cause physical pain, other than an intervention or technique permitted under Section 37.0011;
 - notwithstanding Section 37.0011, is designed to or likely to cause physical pain through the use of electric shock or any procedure that involves the use of pressure points or joint locks;
 - involves the directed release of a noxious, toxic, or otherwise unpleasant spray, mist, or substance near the student's face;
 - denies adequate sleep, air, food, water, shelter, bedding, physical comfort, supervision, or access to a restroom facility;
 - ridicules or demeans the student in a manner that adversely affects or endangers the learning or mental health of the student or constitutes verbal abuse;
 - employs a device, material, or object that simultaneously immobilizes all four extremities, including any procedure that results in such immobilization known as prone or supine floor restraint;
 - impairs the student's breathing, including any procedure that involves:
 - applying pressure to the student's torso or neck; or
 - obstructing the student's airway, including placing an object in, on, or over the student's mouth or nose or placing a bag, cover, or mask over the student's face;
8. restricts the student's circulation;
 9. secures the student to a stationary object while the student is in a sitting or standing position;
 10. inhibits, reduces, or hinders the student's ability to communicate;
 11. involves the use of a chemical restraint;
 12. constitutes a use of time-out that precludes the student from being able to be involved in and progress appropriately in the required curriculum and, if applicable, toward the annual goals included in the student's individualized education program, including isolating the student by the use of physical barriers; or
 13. except as provided by Section 37.0023 (c), deprives the student of the use of one or more of the student's senses.

Education Code 37.0023(a).

<Insert>

Program Administration

ADMINISTRATION OF PROGRAM INFORMATION

20 U.S.C. §§ 1412, 1413, 1418, 6398; 34 C.F.R. Part 300; Texas Education Code; Performance-Based Monitoring Analysis System (PBMAS)

The LEA must comply with the Records guidelines.

INFORMATION FOR THE TEA

34 C.F.R. §§ 300.211, 300.157; TEC § 42.006; 20 U.S.C. §§ 1412(a)(15-16), 1413(a)(7); PBMAS

The LEA must provide the TEA with information relating to the performance of children with disabilities participating in programs carried out under IDEA in order for TEA to carry out its duties.

INFORMATION REGARDING DISPROPORTIONALITY

20 U.S.C. § 1418(d)(1)(A-C)(2); 34 C.F.R. § 300.646(a)(1-3)(b)

The LEA must comply with Child Find guidelines.

The LEA must comply with the Full and Individual Evaluation guidelines.

The LEA must comply with the ARD Committee guidelines.

The TEA provides for the collection and examination of data through PEIMS to determine if significant disproportionality based on race and ethnicity is occurring in the state and the LEAs of the state with respect to:

- The identification of children as children with disabilities in accordance with a particular impairment;
- The placement in particular educational settings of such children; and
- The incidence, duration, and type of disciplinary actions, including suspensions and expulsions.

In the case of a determination of significant disproportionality with respect to the identification of children as children with disabilities, or the placement in particular educational settings of such children, the state requires the LEA to publicly report on the revision of policies, practices, and procedures.

INFORMATION REGARDING THE PROVISION OF A FREE APPROPRIATE PUBLIC EDUCATION

20 U.S.C. § 1418(a)(1)(A)(i); 34 C.F.R. § 300.645(a); TEC § 42.006

The LEA must comply with the ARD Committee guidelines.

The LEA must provide data each year through PEIMS to the TEA who, in turn, reports to the Secretary of Education and the public the number and percentage of children with disabilities:

- By race, ethnicity, limited English proficiency status, gender, and disability category, who are receiving a FAPE.

INFORMATION REGARDING LEAST RESTRICTIVE ENVIRONMENT (LRE)

20 U.S.C. § 1418(a); 34 C.F.R. § 300.645(a); TEC § 42.006

The LEA must comply with the ARD Committee, including the Least Restrictive Environment guidelines.

The LEA must provide data each year through PEIMS to the TEA which, in turn, reports to the Secretary of Education and the public the number and percentage of children with disabilities:

- By race, ethnicity, limited English proficiency status, gender, and disability category, who are:
 - Participating in regular education; or
 - In separate classes, separate schools or facilities, or public or private residential facilities.

INFORMATION REGARDING TERMINATION OF SERVICES

20 U.S.C. § 1418(a)(1)(A); 34 C.F.R. § 300.645(a)

The LEA must comply with the Full and Individual Evaluation guidelines.

The LEA must comply with the ARD Committee, including the Determination of Eligibility and Educational Need, and Graduation guidelines.

The LEA must provide data each year through PEIMS to the TEA who, in turn, reports to the Secretary of Education and the public the number and percentage of children with disabilities:

- By race, ethnicity, limited English proficiency status, gender, and disability category, who are, for each year of age, from age fourteen (14) through twenty-one (21), stopped receiving special education and related services because of program completion (including graduation with a regular secondary school diploma), or other reasons, and the reasons why those children stopped receiving special education and related services.

INFORMATION REGARDING PARENTALLY-PLACED PRIVATE SCHOOL CHILDREN

20 U.S.C. § 1412(a)(10)(A)(i)(V); 34 C.F.R. § 300.132(c)

The LEA must comply with the Private Schools guidelines.

The LEA must maintain in its records and provide to the TEA the number of parentally-placed private school children evaluated, the number of parentally-placed private school children determined to be children with disabilities, and the number of parentally-placed private school children served.

INFORMATION REGARDING PARTICIPATION IN STATE-OR DISTRICT-WIDE ASSESSMENTS

20 U.S.C. § 1412(a)(16); 34 C.F.R. § 300.160(f)

The LEA must comply with the ARD Committee, including State- and District-wide Assessments guidelines.

The TEA (or, in the case of a district-wide assessment, the LEA) must make available to the public, and report to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:

- The number of children with disabilities participating in regular assessments, and the number of those children who were provided accommodations in order to participate in those assessments;

- The number of children with disabilities participating in alternate assessments aligned to the state's content and achievement standards;
- The number of children with disabilities, if any, participating in alternate assessments based on modified academic achievement standards;
- The number of children with disabilities participating in alternate assessments aligned to alternate achievement standards (i.e., below enrolled grade level); and
- The performance of children with disabilities on regular assessments and on alternate assessments (if statistically reliable information does not reveal personally identifiable information about an individual child), compared with the achievement of all children, including children with disabilities, on those assessments.

INFORMATION REGARDING DISCIPLINE

20 U.S.C. §§ 1413(j), 1418(a)(1)(A,D,E); 34 C.F.R. §§ 300.229(b), 300.645(a); 19 TAC § 97.1021

The LEA must comply with the Discipline guidelines.

The LEA must comply with the Restraint and Time-Out guidelines.

The LEA must provide data each year through PEIMS to the TEA who, in turn, reports to the Secretary of Education and the public the number and percentage of children with disabilities, as well as the following specific information:

- The race, ethnicity, limited English proficiency status, gender, and disability category of children who have been removed to an IAES;
- The acts or items causing removals to an IAES;
- The number and percentage of children with disabilities who are subject to long-term suspensions or expulsions;
- The incidence and duration of disciplinary actions including suspensions of one (1) day or more; and
- The number and percentage of children with disabilities who are removed to alternative educational settings or expelled compared to children without disabilities who are removed to alternative educational settings or expelled.

The state may require that an LEA include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and transmit such statement to the same extent that such disciplinary information is included in, and transmitted with, the records of nondisabled children

- The statement may include a description of any behavior engaged in by the child that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the child and other individuals involved with the child; and
- If the state adopts such a policy, and the child transfers from one school to another, the transmission of any of the child's records must include both the child's current IEP and any such statement of current or previous disciplinary action that has been taken against the child.

INFORMATION REGARDING MIGRATORY CHILDREN

20 U.S.C. §§ 1413(a)(9), 6398(b)

The LEA must cooperate in the Secretary's efforts, under the Elementary and Secondary Education Act, to ensure the linkage of records pertaining to migratory children with a disability for the purpose of electronically exchanging, among the states, health and educational information regarding such children.

INFORMATION ON DIRECT SERVICES BY TEA

20 U.S.C. § 1413(g); 34 C.F.R. § 300.227(a)(1)(i)

The TEA will use the payments that would otherwise have been available to the LEA to provide special education and related services directly to children with disabilities residing in the area served by the LEA, if the TEA determines that the LEA has not provided the information needed to establish eligibility under IDEA.

RESIDENTIAL PLACEMENTS

Texas Education Code; 19 TAC Chapter 89

Subject to the provisions of the ARD Committee guidelines and this guideline, the LEA may contract with a residential facility to provide some or all of the special education services listed in the contracted child's IEP.

When making a residential placement, the LEA must:

- Comply with the ARD Committee, including the Least Restrictive Environment guidelines; and
- Make an initial and an annual on-site visit to verify that the residential facility can, and will provide the services listed in the child's IEP which the facility has agreed to provide to the child.

When a child who is residentially placed by the LEA changes residence to another Texas LEA, and the child continues in the contracted placement, the LEA which negotiated the contract must be responsible for the residential contract for the remainder of the school year.

The LEA may contract for an in-state residential placement of a child only with public or private residential facilities which maintain current and valid licensure for the particular disabling condition and age of the child.

An approved facility, institution, or agency with whom the LEA contracts must periodically report to the LEA on the services the child has received or will receive in accordance with the contract, as well as diagnostic or other evaluative information that the LEA requires in order to fulfill its obligations under the IDEA.

RESIDENTIAL APPLICATION PROCESS

19 TAC § 89.61(a)(1-4); TEC § 29.008(d)

If the facility provides any educational services listed in a child's IEP, the facility's education program must be approved by the Commissioner of Education.

The LEA which intends to contract for residential placement of a child with a residential facility under this framework must notify the TEA of its intent to contract for the residential placement through the residential application process.

The LEA must comply with the Use of Funds for Contracted Services Including Residential Placements guidelines.

Requests for approval of state and federal funding for residentially placed children must be negotiated on an individual basis through a residential application submitted by the LEA to the TEA.

A residential application may be submitted for educational purposes only.

The residential application will not be approved if the application indicates that:

- Placement is due primarily to the child's medical problems;
- Placement is due primarily to problems in the child's home;
- The LEA does not have a plan, including timelines and criteria, for the child's return to the local school program;
- The LEA did not attempt to implement lesser restrictive placements prior to residential placement (except in emergency situations as documented by the child's ARD committee);
- Placement is not cost-effective when compared with other alternative placements; and/or
- Residential facility provides un-fundable/un-approvable services.

RESIDENTIAL APPROVAL PROCESS

19 TAC § 89.61(a)(1-4)

Residential facilities which provide educational services must have their educational programs approved for contracting purposes by the Commissioner of Education.

If the education program of a residential facility which is not approved by the Commissioner of Education is being considered for a residential placement by the LEA, the LEA should notify the TEA in writing of its intent to place a child at the facility.

The TEA will begin approval procedures and conduct an on-site visit to the facility within thirty (30) calendar days after the TEA has been notified by the LEA.

Approval of the education program of a residential facility may be for one (1), two (2), or three (3) years.

The Commissioner of Education will renew approvals and issue new approvals only for those facilities which have contract children already placed or which have a pending request for residential placement from the LEA.

The approval does not apply to residential facilities which only provide related services or residential facilities in which the accredited LEA where the facility is located provides the educational program.

OUT OF STATE RESIDENTIAL PLACEMENT

19 TAC § 89.61(a)(c)

The LEA may contract for an out-of-state residential placement in accordance with this framework.

The LEAs which contract for an out-of-state residential placement must do so in accordance with the rules for in-state residential placement in this framework, except that the facility must be approved by the appropriate agency in the state in which the facility is located, rather than by the Commissioner of Education in Texas.

FACILITIES

20 U.S.C. § 1404; 34 C.F.R. Part 300; Americans with Disabilities Accessibility Guidelines for Buildings and Facilities; Uniform Federal Accessibility Standards

If the Secretary of Education determines that a program authorized under the IDEA Part B will be improved by permitting program funds to be used to acquire appropriate equipment, or to construct new facilities or alter existing facilities, the Secretary is authorized to allow the use of those funds for those purposes.

The LEA must comply with the Funding guidelines.

The LEA must comply with the Administration of Equipment guidelines.

COMPLIANCE WITH OTHER LAWS

34 C.F.R. § 300.718(b); 20 U.S.C. § 1404(b)(1)(2); Standards for Accessible Design

Any construction of new facilities or alteration of existing facilities with authorized IDEA program funds must comply with the requirements of:

- Appendix A of part 36 of Title 28, Code of Federal Regulations (commonly known as the 'Americans with Disabilities Accessibility Guidelines for Buildings and Facilities'); or
- Appendix A of subpart 101-19.6 of Title 41, Code of Federal Regulations (commonly known as the 'Uniform Federal Accessibility Standards, UFAS').

ADMINISTRATION OF EQUIPMENT

20 U.S.C. §§ 1401, 1404, 1412; 34 C.F.R. Parts 80, 300; Texas Education Code; 19 TAC Chapter 89

"Assistive technology device" means any device, including equipment or a product system that is used to increase, maintain, or improve functional capabilities of the child with a disability.

The LEA must comply with the ARD Committee guidelines, including the Special Factors guidelines.

The LEA must comply with the Facilities guidelines.

DEFINITION

20 U.S.C. §§ 1401(7)(A), 1401(7)(B); 34 C.F.R. Part 300.14, 300.14(a), 300.14(b)

The term "equipment" includes:

- Machinery, utilities, built-in equipment, and any necessary enclosures or structures to house such machinery, utilities, or equipment; and

- All other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as:
 - Instructional equipment and necessary furniture;
 - Printed, published, and audio-visual instructional materials;
 - Telecommunications, sensory, and other technological aids and devices; and
 - Books, periodicals, documents, and other related materials.

ACQUISITION OF EQUIPMENT

20 U.S.C. § 1404(a); 34 C.F.R. Part 300.105(a), 300.105(b), 300.718(a)

The LEA must comply with the Funding guidelines when acquiring equipment and supplies.

The LEA must ensure that ADTs are made available to the child with a disability if required as part of the child’s special education, related services, or supplementary aids and services.

On a case-by-case basis, the use of school-purchased ATDs in the child’s home or in other settings is required if the child’s ARD committee determines that the child needs access to those devices in order to receive FAPE.

If the Secretary of Education determines that a program authorized under IDEA Part B will be improved by permitting program funds to be used to acquire appropriate equipment, the Secretary is authorized to allow the use of those funds for those purposes.

EQUIPMENT IN PRIVATE SCHOOLS

34 C.F.R. §§ 300.138(c)(2), 300.144(a)(b)(c)(d); 20 U.S.C. § 1412(a)(10)(A)(vii)

The LEA must comply with the Private Schools and Proportionate Share Funding for Parentally-Placed Private Schools Child guidelines.

Special education and related services provided to parentally-placed private school children with disabilities, including materials and equipment, must be secular, neutral, and non-ideological.

The LEA must hold title to and administer materials, equipment, and property purchased with those funds for the uses and purposes in the IDEA Part B.

The LEA may place equipment and supplies in a private school for the period of time needed for the IDEA Part B program.

The LEA must ensure that the equipment and supplies placed in a private school:

- Are used only for IDEA Part B purposes; and
- Can be removed from the private school without remodeling the private school facility.

The LEA must remove equipment and supplies from a private school if:

- The equipment and supplies are no longer needed for IDEA Part B purposes; or
- Removal is necessary to avoid unauthorized use of equipment and supplies for other than IDEA Part B purposes.

TRANSFER OF AN ASSISTIVE TECHNOLOGY DEVICE (ATD)

TEC § 30.0015(a)(b)(1-3); 19 TAC § 89.1056(b); 34 C.F.R. § 80.32

“Assistive technology device” means any device, including equipment or a product system that is used to increase, maintain, or improve functional capabilities of a child with a disability.

“Transfer” means the process by which an LEA that has purchased an ATD may sell, lease, or loan the device for the continuing use of a child with a disability changing the school of attendance in the district or leaving the district.

When a child with a disability using a device changes the school of attendance in the LEA or ceases to attend school in the LEA, the LEA may transfer an assistive technology device according to the requirements of this section.

An ATD may only be transferred to:

- The school or LEA in which the child or adult student enrolls;
- A state agency that provides services to the child or adult student following graduation from high school; or
- The child’s parents or the child if the child has the legal capacity to enter into a contract.

A transfer must be in accordance with a transfer agreement which includes, specifically, the following:

- The transferor and transferee must represent and agree that the terms of the transfer are based on the fair market value of the ATD, determined in accordance with generally accepted accounting principles;
- The informed consent of the parent or adult student before transferring an ATD, in compliance with the Consent to Transfer Assistive Technology Devices guidelines.

If the transfer is a sale, then the sale of the ATD must be evidenced by a “Uniform Transfer Agreement” (UTA), which includes the following:

- The names of the transferor and the transferee;
- The date of the transfer;
- A description of the ATD being transferred;
- The terms of the transfer (including the transfer of warranties, to the extent applicable); and
- The signatures of authorized representatives of both the transferor and the transferee.

Nothing in this document:

- Alters any existing obligation under federal or state law to provide ATDs to children with disabilities;
- Requires an LEA to transfer an ATD to any person or entity;
- Limits an LEA’s right to sell, lease, loan, or otherwise convey or dispose of property as authorized by federal or state laws, rules, or regulations; or
- Authorizes any transfer of an ATD that is inconsistent with any restriction on transferability imposed by the manufacturer or developer of the ATD or applicable federal or state laws, rules, or regulations.

EVERY STUDENT SUCCEEDS ACT (ESSA)

20 U.S.C. § 6311; 20 U.S.C. § 1412

The Every Student Succeeds Act (ESSA) ensures a quality education for all kids by giving states more of a say in how schools account for student achievement. This includes the achievement of disadvantaged students falling into four (4) categories: 1) students in poverty; 2) minorities; 3) students who receive special education; and 4) those with limited English language skills.

Under ESSA, states get to decide the education plans for their schools within a framework provided by the federal government. The law also offers parents a chance to weigh in on these plans. This is important for children receiving special education services. Each plan must include:

- Academic standards;
- Annual testing;
- School accountability;
- Goals for academic achievement;
- Plans for supporting and improving struggling schools; and
- State and local report cards.

PRIOR TO ESSA

Prior to the changes enacted by ESSA, the No Child Left Behind Act required teachers who taught core academic subjects (English, reading or language arts, mathematics, science, foreign languages, civics and government, economics, arts, history, or geography) to be highly qualified. Highly qualified teachers were required to 1) have obtained full state certification or have passed the state teacher licensing exam; and 2) have held a license to teach in the state; and 3) have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis. Prior ESSA, all public elementary and secondary special education teachers were required to be highly qualified. Highly qualified special education teachers were required to 1) have obtained full state certification as a special education teacher or have passed the state special education teachers licensing exam; and 2) have held a license to teach in the state as a special education teacher; and 3) have not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis.

POST-ESSA

ESSA amends IDEA's requirements for both public elementary and secondary teachers and public elementary and secondary special education teachers. Under ESSA, school districts are no longer required to identify and document "highly qualified teacher" status for teachers hired after December 10, 2015.

Special Education Teachers

Under ESSA, public elementary and secondary special education teachers must 1) have obtained full state certification as a special education teacher (including participation in an alternative route to

certification so long as such route meets the requirements of the law) or passed the state special education teachers licensing examination; 2) hold a license to teach in the state as a special education teacher, except teachers teaching in a public charter school who must meet the requirements set forth in the state's public charter school law; 3) have not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and 4) hold at least a bachelor's degree.

Academic Standards

Under ESSA, each state gets to set its own general education standards and coursework for schools. This is the material students are expected to learn in each grade. With this law, states must have “challenging” academic standards in reading, math, and science. This means a state’s curriculum must prepare students to succeed in college and in a career. Also, states must apply these standards to *all* students, including those with learning and attention issues.

Annual Testing

Under ESSA, states must test students. But the number and kinds of tests depend on the grade level of the child.

States must test students in reading and math once a year, in grades three (3) through eight (8), as well as once in high school. They must also test kids in science once in grade school, middle school, and high school.

Also, states must provide accommodations on these tests and list them in students’ IEPs or 504 plans. Only one percent (1%) of students can be given “alternate tests.” These tests are different from the state’s general education tests. Just a small number of kids with cognitive disabilities take these kinds of assessments. These tests aren’t usually for students with learning and attention issues.

School Accountability

ESSA requires states to hold schools accountable for how students achieve. This means each state is responsible for having a plan in place to identify schools that are underperforming. In other words, it’s a way for states to know how students are faring. Under the law, there are specific things that must be in the state’s accountability plan.

Accountability Indicators: ESSA requires each state to choose a minimum of five (5) ways to measure school performance. The first four (4) are academic indicators that are mandatory:

- Academic achievement;
- Academic progress;
- English language proficiency; and
- High school graduation rates.

The fifth (5th) measure must be a way to measure school quality or student success, and states can select more than one (1) way to do this. For example, states can choose to measure any of the following areas:

- Kindergarten readiness;
- Access to and completion of advanced coursework;
- College readiness;
- Discipline rates; or
- Chronic absenteeism.

Under ESSA, the state must use at least five (5) measures to evaluate how schools are serving kids. But the first four (4) academic indicators matter the most when states measure school accountability.

Goals for Academic Achievement

States must set achievement goals for students. This means states must come up with a way to measure whether students are improving or not. These goals are important for students who tend to struggle more than others, like students in special education.

The state must set “ambitious” goals for kids who are often the furthest behind. For example, the state may set a long-term goal to raise the high school graduation rates for students in special education. And to reach this long-term goal, there might be shorter-term ways of measuring progress. This can help to make sure students are on track.

These goals are supposed to help struggling students catch up and close the achievement gap with other students. Again, these goals must be spelled out in each state plan.

Plans for Improving Struggling Schools

ESSA requires states to identify schools that are struggling. And there are two (2) categories of struggling schools that states must try to improve:

- “Comprehensive Support and Improvement” schools, which are the lowest performing schools in a state; and
- “Targeted Support and Improvement” schools, where certain student groups are consistently underperforming.

Under ESSA, once a school is considered “struggling,” then states and school districts must create plans to try to help get the school back on track. And parents get to weigh in on these plans. The law requires that the plans must use evidence-based teaching and approaches.

State and Local Report Cards

ESSA requires that each state and school district publish report cards. This means states and local school districts must have public information available on how schools are doing. Among other things, the following must be reported:

- Test score results;
- High school graduation rates;
- School funding information; and

- Teacher qualifications.

The report cards also give details on “subgroups” of students. This includes minority students, kids in poverty, those learning English and students in special education. If a state identifies a school or subgroup as struggling, it must notify parents. This is important for students with disabilities. The report cards will show parents how well or poorly schools are serving their kids.

SPECIAL EDUCATION AND RELATED SERVICE PERSONNEL

20 U.S.C. § 1412; 34 C.F.R. Part 300; Texas Education Code; 19 TAC Chapter 89; Texas Occupations Code

All special education and related service personnel must be certified, endorsed, or licensed in the areas of assignment, except:

- A person employed by a district prior to September 1, 2011, to perform marriage and family therapy is not required to hold a license as a marriage and family therapist to provide marriage and family therapy with that district.

ASSIGNMENT

19 TAC § 89.1131(b)

A teacher who holds a special education certificate or an endorsement may be assigned to any level of basic special education instructional program serving children with disabilities ages three (3) to twenty-one (21), as permitted by certification, except:

- Persons assigned to provide speech therapy instructional services must hold a valid TEA certificate in speech and hearing therapy or speech and language therapy, or a valid state license as a speech/language pathologist;
- Teachers holding only a special education endorsement for early childhood education for children with disabilities must be assigned only to programs serving infants through grade six (6);
- Teachers certified in the education of children with visual impairments must be available to children with visual impairments, including deaf-blindness, through one of the LEA’s instructional options, a shared services arrangement with other LEAs, or an education service center:
 - Teachers assigned full-time or part-time to instruct children from birth through age two (2) with visual impairments, including deaf-blindness, must be certified in the education of children with visual impairments;
- Teachers with secondary certification with the generic delivery system may be assigned to teach grades six (6) through (12) only; and
- When the ARD committee has specified arrangements for physical education in the child’s individualized education program, physical education may be provided by:
 - Special education instructional or related service personnel who have the necessary skills and knowledge;
 - Physical education teachers;
 - Occupational therapists;

- Physical therapists; or
- Occupational therapy assistants or physical therapy assistants working under supervision in accordance with the standards of their profession.

When physical education services are provided by special education personnel, the LEA must document that personnel have the necessary skills and knowledge, including, but not limited to, in-service records, evidence of attendance at seminars or workshops, or transcripts of college courses.

Orientation and mobility instruction must be provided by a certified orientation and mobility specialist who is certified by the Academy for Certification of Vision Rehabilitation and Education Professionals.

PARAPROFESSIONAL PERSONNEL

19 TAC § 89.1131(c)

Paraprofessional personnel must be certified.

Paraprofessional personnel may be assigned to work with:

- Eligible children with disabilities;
- General education and special education teachers; and
- Related service personnel.

Paraprofessional personnel may also be assigned to:

- Assist children with special education transportation;
- Serve as a job coach; or
- Serve in support of community-based instruction.

Paraprofessional personnel paid from state administrative funds may be assigned to:

- The Special Education Resource System;
- The Special Education Management System; or
- Other special education clerical or administrative duties.

Records

CONFIDENTIALITY OF INFORMATION

34 C.F.R. Parts 99, 300

Under FERPA and for the purposes of the Records guidelines:

- “Educational agency or institution” means any public or private agency or institution;
- “Biometric record” means a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual. Examples include

fingerprints, retina and iris patterns, voiceprints, DNA sequence, facial characteristics, and handwriting;

- “Personally identifiable information” includes, but is not limited to:
 - The student’s name;
 - The name of the student’s parent or other family member;
 - The address of the student or student’s family;
 - A personal identifier, such as the student’s social security number, student identification number, or biometric record;
 - Other indirect identifiers, such as the student’s date of birth, place of birth, and mother’s maiden name;
 - Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
 - Information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

SAFEGUARDS

34 C.F.R. § 300.623(a)(b)(c)

Each educational agency or institution must:

- Protect the confidentiality of personally identifiable information at the collection, storage, disclosure, and destruction stages; and
- Maintain for public inspection, a current listing of the names and positions of those employees within the agency or institution who may have access to personally identifiable information.

One (1) official at each educational agency or institution must assume responsibility for ensuring the confidentiality of any personally identifiable information.

All persons collecting or using personally identifiable information must receive training or instruction regarding the State’s policies and procedures to protect the confidentiality of any personally identifiable information collected, used, or maintained by the educational agency or institution.

SPECIAL EDUCATION ELIGIBILITY FOLDER

20 U.S.C. § 1414(d)(1)(A)(ii); 34 C.F.R. Part 300.320(d); 19 TAC § 89.1075(a)

Each LEA must maintain an eligibility folder for each child receiving special education services, in addition to the child’s cumulative record.

The eligibility folder must include, but need not be limited to:

- Copies of referral data;
- Documentation of notices and consents;
- Evaluation reports and supporting data;

- ARD committee reports; and
- The student’s IEP.

Nothing in the Individuals with Disabilities Act (IDEA) will be construed to require that additional information be included in a student’s IEP beyond what is explicitly required in the ARD Committee portion of this document.

RETENTION AND DESTRUCTION OF RECORDS

34 C.F.R. Parts 75, 80, 300; 19 TAC Chapter 101; Texas Government Code; Texas Local Government Code; Texas State Library and Archives Commission Local Schedule

DEFINITIONS

“Records”

The term “records” means all documents, papers, letters, books, maps, photographs, sound or video recordings, microfilm, magnetic tape, electronic media, or other recording media, regardless of physical form or characteristic, and regardless of whether public access to it is open or restricted under the laws of the state, created or received by **Arrow Academy**, or any of its officers or employees pursuant to law or in the transaction of public business, are hereby declared to be the records of **Arrow Academy** and shall be created, maintained, and disposed of in accordance with the provisions of this ordinance or procedures authorized by it and in no other manner.

The term “records” does not include:

1. Convenience copies: “Extra identical copies of documents created only for convenience of reference or research;”
2. Copies of documents furnished to the public (to fulfill a Public Information Act request).
3. Blank forms/stocks of publications; or
4. Library or museum materials.

“Essential Record”

The term “essential record” means any record of **Arrow Academy** necessary to the resumption or continuation of operations of **Arrow Academy** in an emergency or disaster, to the recreation of the legal and financial status of **Arrow Academy**, or to the protection and fulfillment of obligations to the people of the state.

“Records Management”

The term “records management” means the application of management techniques to the creation, use, maintenance, retention, preservation, and disposal of records for the purposes of reducing the costs and improving the efficiency of record keeping. The term includes the development of records control schedules, the management of filing and information retrieval systems, the protection of essential and permanent records, the economical and space-

effective storage of inactive records, control over the creation and distribution of forms, reports, and correspondence, and the management of micrographic and electronic and other records storage systems.

“Records Liaison Officers”

The term “records liaison officers” means the persons designated under Section 9 of this policy.

“Records Management Committee”

The term “records management committee” means the committee established under Section 5 of this policy.

“Records Management Officer”

The term “records management officer” means the person designated in Section 4 of this policy.

“Records Management Plan”

The term “records management plan” means the plan developed under Section 6 of this policy.

RECORDS DECLARED PUBLIC PROPERTY

All records as defined in Section 1 of this policy are hereby declared to be the property of **Arrow Academy**. No official or employee of **Arrow Academy** has, by virtue of his or her position, any personal or property right to such records, even though he or she may have developed or compiled them. The unauthorized destruction, removal from files, or use of such records is prohibited.

POLICY

It is hereby declared to be the policy of **Arrow Academy** to provide for efficient, economical, and effective controls over the creation, distribution, organization, maintenance, use, and disposition of all records of this office through a comprehensive system of integrated procedures for the management of records from their creation to their ultimate disposition, consistent with the requirements of the Local Government Records Act and accepted records management practice.

RECORDS MANAGEMENT OFFICER

PEIMS Coordinator will serve as Records Management Officer for **Arrow Academy** as provided by law, and will ensure that the maintenance, destruction, electronic storage, or other

disposition of the records of this office are carried out in accordance with the requirements of the Local Government Records Act.

ESTABLISHMENT OF RECORDS MANAGEMENT COMMITTEE; DUTIES

The Records Management Officer, in consultation with the Human Resource Director, shall appoint a Records Management Committee consisting of:

- A Human Resource Department Supervisor; and
- A financial officer for **Arrow Academy**; and
- An executive or administrative officer for **Arrow Academy**

The committee shall:

- Assist the Records Management Officer in the development of policies and procedures governing the records management program;
- Review the performance of the program on a regular basis and propose changes and improvements if needed;
- Review and approve records control schedules submitted by the Records Management Officer;
- Give final approval to the destruction of records in accordance with approved records control schedules; and
- Actively support and promote the records management program throughout **Arrow Academy**.
-

RECORDS MANAGEMENT PLAN TO BE DEVELOPED; APPROVAL OF PLAN; AUTHORITY OF PLAN

The Records Management Officer and the Records Management Committee shall develop a records management plan for **Arrow Academy** to be submitted to the Board. The plan must contain policies and procedures designed to reduce the costs and improve the efficiency of record keeping, to adequately protect the essential records of **Arrow Academy**, and to properly preserve those records of **Arrow Academy** that are of historical value. The plan must be designed to enable the Records Management Officer to carry out his or her duties prescribed by state law and this policy effectively.

Once approved by the Board, the records management plan shall be binding on all offices, departments, divisions, programs, commissions, bureaus, boards, committees, or similar entities of **Arrow Academy**, and records shall be created, maintained, stored, microfilmed, or disposed of in accordance with the plan.

DUTIES OF RECORDS MANAGEMENT OFFICER

In addition to other duties assigned in this policy, the Records Management Officer shall:

- Administer the records management program and provide assistance to department heads in its implementation;
- Plan, formulate, and prescribe records disposition policies, systems, standards, and procedures;
- In cooperation with Principals and department heads, identify essential records and establish a disaster plan for each **Arrow Academy** campus and department to ensure maximum availability of the records in order to re-establish operations quickly and with minimum disruption and expense;
- Develop procedures to ensure the permanent preservation of the historically valuable records of **Arrow Academy**;
- Establish standards for filing and storage equipment and for record keeping supplies;
- Study the feasibility of and, if appropriate, establish a uniform filing system and a forms design and control system for **Arrow Academy**;
- Provide records management advice and assistance to all **Arrow Academy** departments by preparing a manual or manuals of procedure and policy and by on-site consultation;
- Monitor records retention schedules and administrative rules issued by the Texas State Library and Archives Commission to determine if the records management program and **Arrow Academy**'s records control schedules are in compliance with state regulations;
- Disseminate to the Board, department heads, and Principals information concerning state laws and administrative rules relating to local government records;
- Instruct Records Liaison Officers and other personnel in policies and procedures of the records management plan and their duties in the records management program;
- Direct Records Liaison Officers or other personnel in the conduct of records inventories in preparation for the development of records control schedules as required by state law and this policy;
- Ensure that the maintenance, preservation, microfilming, destruction, or other disposition of **Arrow Academy** records is carried out in accordance with the policies and procedures of the records management program and the requirements of state law;
- Maintain records on the volume of records destroyed under approved records -- control schedules, the volume of records microfilmed or stored electronically, and the estimated cost and space savings as the result of such disposal or disposition;
- Report annually to the Superintendent on the implementation of the records management plan in each department of **Arrow Academy**; and
- Bring to the attention of the Superintendent non-compliance by department heads, Principals, or other **Arrow Academy** personnel with the policies and procedures of the records management program or the Local Government Records Act.

DUTIES AND RESPONSIBILITIES OF DEPARTMENT HEADS AND PRINCIPALS

In addition to other duties assigned in this policy, department heads and Principals shall:

- Cooperate with the Records Management Officer in carrying out the policies and procedures established by **Arrow Academy** for the efficient and economical management of records and in carrying out the requirements of this policy;

- Adequately document the transaction of government business and the services, programs, and duties for which the department head, principal, and his or her staff are responsible; and
- Maintain the records in his or her care and carry out their preservation, microfilming, destruction, or other disposition only in accordance with the policies and procedures of the records management program of **Arrow Academy** and the requirements of this policy.

DESIGNATION OF RECORDS LIAISON OFFICERS

Each department head and Principal shall designate a member of his or her staff to serve as a Records Liaison Officer for the implementation of the records management program in the department.

If the Records Management Officer determines that in the best interests of the records management program more than one Records Liaison Officer should be designated for a department, the department head or Principal shall designate the number of Records Liaison Officers specified by the Records Management Officer.

Persons designated as Records Liaison Officers shall be thoroughly familiar with all records created and maintained by the department.

In the event of the resignation, retirement, dismissal, or removal by action of the department head or Principal of a person designated as a Records Liaison Officer, the department head or Principal shall promptly designate another person to fill the vacancy.

A department head or Principal may serve as Records Liaison Officer for his or her department.

DUTIES AND RESPONSIBILITIES OF RECORDS LIAISON OFFICERS

In addition to other duties assigned in this policy, Records Liaison Officers shall:

- Conduct or supervise the conduct of inventories of the records of the department in preparation for the development of records control schedules;
- In cooperation with the Records Management Officer, coordinate and implement the policies and procedures of the records management program in their department; and
- Disseminate information to department staff concerning the records management program.

RECORDS CONTROL SCHEDULES TO BE DEVELOPED; APPROVAL; FILING WITH STATE

- The Records Management Officer, in cooperation with department heads, Principals, and Records Liaison Officers, shall prepare records control schedules on a department by department basis, listing all records created or received by the department and the

retention period for each record. Records control schedules shall also contain such other information regarding the disposition of **Arrow Academy** records as the records management plan may require.

- Each records control schedule shall be monitored and amended as needed by the Records Management Officer on a regular basis to ensure that it is in compliance with records retention schedules issued by the state, and that it continues to reflect the record keeping procedures and needs of the department and the records management program of **Arrow Academy**.
- Before its adoption, a records control schedule or amended schedule for a department must be approved by the department head or Principal and the members of the Records Management Committee.
- Before its adoption, a records control schedule must be submitted to and accepted for filing by the director and librarian as provided by state law. If a schedule is not accepted for filing, the schedule shall be amended to make it acceptable for filing. The Records Management Officer shall submit the records control schedules to the director and librarian.

IMPLEMENTATION OF RECORDS CONTROL SCHEDULES; DESTRUCTION OF RECORDS UNDER SCHEDULE

- A records control schedule for a department that has been approved and adopted under Section 11 shall be implemented by department heads, principals and Records Liaison Officers according to the policies and procedures of the records management plan.
- A record whose retention period has expired on a record control schedule shall be destroyed unless an open records request is pending on the record, the subject matter of the records is pertinent to a pending lawsuit, or the department head or principal requests in writing to the Records Management Committee that the record be retained for an additional period.
- Prior to the destruction of a record under an approved records control schedule, authorization for the destruction must be obtained by the Records Management Officer from the Records Management Committee.

DESTRUCTION OF UNSCHEDULED RECORDS

A record that has not yet been listed on an approved records control schedule may be destroyed if its destruction has been approved in the same manner as a record destroyed under an approved schedule and the Records Management Officer has submitted to and received back from the director and librarian an approved destruction authorization request.

CONTRACT SERVICES

With approval of the Board, the Records Management Officer and Committee may assign and delegate duties under this Policy to contracted services. The engagement of contract services will not relieve persons assigned and responsible under this policy from such assignment and responsibilities.

RECORD OF ACCESS

Arrow Academy shall maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student, (except access by parents and authorized employees of the participating agency), including the name of the party, the date access was given, and the purpose for which the party is authorized to use the records. The record of access shall be maintained with the education records of the student as long as the records are maintained.

Annual Notification

34 C.F.R. Part 99

Under FERPA and for the purposes of the administration of Records:

- “Parent” means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian;
- “Eligible student” means a student who has reached eighteen (18) years of age or is attending an institution of postsecondary education; and
- “Student,” except as otherwise specifically provided in FERPA and the Administration of Records section, means any individual who is or has been in attendance at an educational agency or institution and regarding whom the agency or institution maintains education records.

Each educational agency or institution shall annually notify parents of students currently in attendance, or eligible students currently in attendance, of their rights under FERPA.

The annual notification must inform parents or eligible students that they have the right to:

- Inspect and review the student’s education records;
- Seek amendment of the student’s education records that the parent or eligible student believes to be inaccurate, misleading, or otherwise in violation of the student’s privacy rights;
- Consent to disclosures of personally identifiable information contained in the student’s education records as provided in Consent for Disclosure of Confidential Information, except When Consent is not Required to Disclose Information; and
- File with the Family Policy Compliance Office a complaint concerning alleged failures by the educational agency or institution to comply with the requirements of FERPA.

The notice must include all of the following:

- The procedure for exercising the Parent or Eligible Student Access to Education Records;
- The Procedures for Amending Education Records; and
- A specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest, if the educational agency or institution has a policy of disclosing

education records without parental consent to school officials, including teachers, within the agency or institution whom the agency or institution has determined to have legitimate educational interests.

An educational agency or institution must effectively provide annual notification to parents or eligible students who are disabled.

An agency or institution of elementary or secondary education must effectively provide annual notification to parents who have a primary or home language other than English.

An educational agency or institution may provide annual notification by any means that are reasonably likely to inform the parents or eligible students of their rights.

PARENT OR ELIGIBLE STUDENT ACCESS TO EDUCATION RECORDS

20 U.S.C. § 1415; 34 C.F.R. Parts 99, 300; Texas Education Code

Parents of a student with a disability must be afforded an opportunity to examine all records relating to the student as described in the Notice of Procedural Safeguards guidelines.

DEFINITIONS

Under FERPA and for the purposes of the administration of records:

- “Eligible student” means a student who has reached eighteen (18) years of age or is attending an institution of postsecondary education;
- A “record” is any information recorded in any way, including but not limited to hand writing, print, computer media, video or audiotape, film, microfilm, and microfiche.
- The term “education records” means those records that are:
 - Directly related to a student; and
 - Maintained by an educational agency or institution or by a party acting for the agency or institution.

Records relating to an individual in attendance at the agency or institution who is employed as a result of his or her status as a student are education records.

The term “education records” does not include:

- Records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;
- Records of the law enforcement unit of an educational agency or institution;
- Records relating to an individual who is employed by an educational agency or institution that:
 - Are made and maintained in the normal course of business;
 - Relate exclusively to the individual in that individual’s capacity as an employee; and
 - Are not available for use for any other purpose;
- Records on a student who is eighteen (18) years of age or older, or is attending an institution of postsecondary education, that are:

- Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity;
- Made, maintained, or used only in connection with treatment of the student; and
- Disclosed only to individuals providing the treatment which does not include remedial educational activities or activities that are part of the program of instruction at the agency or institution; and
- Records that only contain information about an individual after he or she is no longer a student at that agency or institution; and
- Grades or peer-graded papers before they are collected and recorded by a teacher.

LIST OF TYPES AND LOCATION OF INFORMATION

34 C.F.R. § 300.616

Each LEA must provide parents or eligible students on request a list of the types and locations of education records collected, maintained, or used by the LEA.

RIGHT TO INSPECT AND REVIEW RECORDS

34 C.F.R. § 300.613(a)(b)(c); 34 C.F.R. §§ 99.3, 99.4, 9.10; TEC § 26.004(1-10)

An educational agency or institution must give full rights to either parent to inspect and review records relating to his or her child unless the agency or institution has been provided with evidence that there is a court order, state statute, or legally binding document relating to such matters as guardianship, divorce, separation, or custody that specifically revokes these rights.

A parent or eligible student has the right to inspect and review any education records of the student that are collected, maintained, or used by the educational agency or institution, including:

- Attendance records;
- Test scores;
- Grades;
- Disciplinary records;
- Counseling records;
- Psychological records;
- Applications for admission;
- Health and immunization information;
- Teacher and counselor evaluations; and
- Reports of behavioral patterns.

The right to inspect and review education records includes:

- The right to a response from the educational agency or institution to reasonable requests for explanations and interpretations of records;
- The right to request that the educational agency or institution provide copies of the records in compliance with Copies Including Fees for Copies;

- The right to have the educational agency or institution preserve any education records for which an outstanding request to inspect and review exists;
- The right to have the treatment records of the student reviewed by a physician or other appropriate professional of the parent or eligible student's choice; and
- The right to have a representative of the parent or eligible student inspect and review the records.

TIMELINE

34 C.F.R. § 300.613(a)(b)(c); 34 C.F.R. § 99.10(b)

The educational agency or institution must comply with a request to inspect and review any education records relating to the student:

- Without unnecessary delay and within a reasonable period of time;
- Before any ARD committee meeting;
- Before a resolution session;
- Before any due process hearing; and
- Not more than forty-five (45) days after the request is received.

RECORDS ON MORE THAN ONE STUDENT

34 C.F.R. § 300.615; 34 C.F.R. § 99.10(a)

If the education records of a student include information on more than one (1) student, the parent or eligible student may inspect and review or be informed of only the specific information about that student.

COPIES INCLUDING FEES FOR COPIES

34 C.F.R. § 300.617; 34 C.F.R. § 99.10(d)

If circumstances effectively prevent the parent or eligible student from exercising the right to inspect and review the student's education records, the educational agency or institution must:

- Provide the parent or eligible student with a copy of the records requested; or
- Make other arrangements for the parent or eligible student to inspect and review the requested records.

An educational agency or institution may charge a reasonable fee for a copy of an education record which is made for the parent or eligible student, unless the imposition of a fee effectively prevents exercising the right to inspect and review the student's education records.

An educational agency or institution must not charge a fee to search for or to retrieve the education records of a student.

When a disclosure of confidential records is made pursuant to the Consent for Disclosure of Confidential Information guidelines:

- If a parent or eligible student so requests, the educational agency or institution must provide a copy of the records disclosed; and
- If the parent of a student who is not an eligible student as defined in the Annual Notification guidelines so requests, the agency or institution must provide the student with a copy of the records disclosed.

When a disclosure of confidential information is made pursuant to the When Consent is Not Required to Disclose Information guidelines, specifically under the conditions that apply to disclosure of information to other educational agencies or institutions, the educational agency or institution must give the parent or eligible student, upon request, a copy of the record that was disclosed.

PROCEDURES FOR AMENDING EDUCATION RECORDS

34 C.F.R. Parts 99 and 300

Request to Amend

34 C.F.R. § 300.618; 34 C.F.R. § 99.21(c)

A parent or eligible student may request the educational agency or institution to amend the student's education record if the parent or eligible student believes the education records relating to the student contain information that is:

- Inaccurate;
- Misleading; or
- In violation of the student's rights of privacy.

Within a reasonable period of time after the agency or institution receives the request, the educational agency or institution must decide whether to amend the record as requested.

If the educational agency or institution decides not to amend the record as requested, it must:

- Inform the parent or eligible student of its decision; and
- Advise the parent or eligible student of the right to a records hearing.

Opportunity for a Records Hearing

34 C.F.R. § 300.619; 34 C.F.R. § 99.21(a)

An educational agency or institution must give a parent or eligible student, upon request, an opportunity for a hearing to challenge the content of the student's education records on the grounds that the information contained in the education records is:

- Inaccurate;
- Misleading; or
- Otherwise in violation of the privacy or other rights of the student.

Hearing Procedures

34 C.F.R. § 99.22(a)(b)(c)

The records hearing must meet, at a minimum, the following requirements:

- It must be held within a reasonable time after the request for the hearing from the parent or eligible student has been received;
- The educational agency or institution must give the parent or eligible student the following notice of the hearing:
 - Date;
 - Time; and
 - Place;
- The notice must be provided a reasonable amount of time prior to the hearing;
- The hearing may be conducted by any individual, including an official of the educational agency or institution, who does not have a direct interest in the outcome of the hearing;
- The parent or eligible student must be given a full and fair opportunity to present evidence relevant to the issues:
 - The parent or eligible student may, at their own expense, be assisted or represented by one or more individuals of his or her own choice, including an attorney; and
- Within a reasonable period of time, the educational agency or institution must make its decision in writing based solely on the evidence presented at the hearing, and must include:
 - A summary of the evidence; and
 - The reasons for the decision.

Results of Records Hearing

34 C.F.R. § 99.21(b)

If, as a result of the hearing, the educational agency or institution decides that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it must:

- Amend the record accordingly; and
- Inform the parent or eligible student of the amendment in writing.

If, as a result of the hearing, the educational agency or institution decides that the information in the education record is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student, it must inform the parent or eligible student of the right to place a statement in the record:

- Commenting on the contested information in the record;
- Setting forth the reasons for disagreeing with the decision of the agency or institution; or
- Both.

Any statement placed in the records of the student must:

- Be maintained as part of the records of the student for as long as the record is maintained by the agency; and
- Disclosed whenever it discloses the portion of the record to which the statement relates.

WHEN CONSENT IS NOT REQUIRED TO DISCLOSE INFORMATION

26 U.S.C. § 152; 34 C.F.R. Parts 99, 300; Texas Education Code; 19 TAC Chapter 89; Texas Family Code §§ 99.31(b), 99.34, 99.35, 99.36(a), 99.36(b)(2), 99.36(b)(3), 99.36(c), 300.622(b)(1), 300.622(a); 19 TAC § 89.1075(c)

Consent for disclosure of confidential information is not required before personally identifiable information is released if:

- The disclosure is to officials of IDEA Part B participating agencies for purposes of meeting a requirement of IDEA Part B except as otherwise provided in this framework;
- The disclosure is to other school officials, including teachers, within the agency or institution whom the agency or institution has determined to have legitimate educational interests,
- The disclosure is to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, is enrolled or is receiving services, subject to the Conditions that Apply to Disclosure of Information to Other Educational Agencies or Institutions;
- The disclosure is to authorized representatives listed in the Conditions that Apply to Disclosure of Information for Federal or State Program Purposes guidelines;
- The disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to:
 - Determine eligibility for the aid;
 - Determine the amount of the aid;
 - Determine the conditions for the aid; or
 - Enforce the terms and conditions of the aid;
- Unless further limited by state law, the disclosure is to state and local officials or authorities to whom this information is specifically:
 - Allowed to be reported or disclosed pursuant to a state statute adopted before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and the system's ability to effectively serve the student whose records are released; or
 - Allowed to be reported or disclosed pursuant to Conditions that Apply to Disclosure of Information as Permitted by State Statute After November 19, 1974 Concerning the Juvenile Justice System;
- The disclosure is to organizations conducting studies for, or on behalf of, educational agencies or institutions subject to the Conditions that Apply to Disclosure of Information to Organizations Conducting Studies;
- The disclosure is to accrediting organizations to carry out their accrediting functions;
- The disclosure is to the parent of a dependent student, as defined in the Internal Revenue Code;
- The disclosure is to comply with a judicial order or lawfully issued subpoena subject to the Conditions that Apply to a Judicial Order or Lawfully Issued Subpoena;
- The disclosure is to appropriate parties in connection with a health or safety emergency under the Conditions that Apply to Disclosure of Information in Health and Safety Emergencies;
- The disclosure is information the educational agency or institution has designated as "directory information," in compliance with the Disclosure of Directory Information guidelines; or

- The disclosure is to the parent of a student who is not an eligible student or to the student.

Conditions that Apply to Disclosure of Information to Other Educational Agencies or Institutions

34 C.F.R. § 99.34(a)(b)

An educational agency or institution that discloses an education record to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, is enrolled, or is receiving services, must:

- Make a reasonable attempt to notify the parent or eligible student at the last known address of the parent or eligible student, unless:
 - The disclosure is initiated by the parent or eligible student; or
 - The annual notification of the agency or institution includes a notice that the agency or institution forwards education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll or transfer;
- Give the parent or eligible student, upon request, a copy of the record that was disclosed; and
- Give the parent or eligible student, upon request, an opportunity for a hearing under the Procedures for Amending Education Records guidelines.

Conditions that Apply to Disclosure of Information for Federal or State Program Purposes

34 C.F.R. §§ 99.31(a), 99.35(b)(c)

The following officials may have access to education records in connection with an audit or evaluation of federal- or state-supported education programs, or for the enforcement of, or compliance with, Federal legal requirements which relate to those programs:

- The Comptroller General of the United States;
- The Attorney General of the United States;
- The United States Secretary of Education; and
- State and local educational authorities.

Unless there has been consent for disclosure of confidential information or the collection of personally identifiable information is specifically authorized by federal law, the information that is collected for disclosure for federal or state program purposes must:

- Be protected in a manner that does not permit personal identification of individuals by anyone except the Comptroller General of the United States, the Attorney General of the United States, the United States Secretary of Education, or state and local educational authorities; and
- Be destroyed when no longer needed for the purpose of audit or evaluation of federal or state supported education programs, or for the enforcement of or compliance with federal legal requirements which relate to those programs.

Conditions that Apply to Disclosure of Information Concerning the Juvenile Justice System

34 C.F.R. §§ 99.31(a), 99.38(a); Texas Family Code § 58.0051; TEC § 27.084(a)(c)(e)(h)

If reporting or disclosure allowed by state statute concerns the juvenile justice system and the system's ability to effectively service, prior to adjudication, the student whose records are released, an educational agency or institution may disclose education records.

At the request of a juvenile service provider, a local educational agency must disclose to the juvenile service provider confidential information contained in the student's educational records if the student has been:

- Taken into custody by a law-enforcement officer or probation officer in connection with a proceeding in juvenile or family court; or
- Referred to a juvenile court for allegedly engaging in delinquent conduct or conduct indicating a need for supervision.

The officials and authorities to whom the records are disclosed must certify in writing to the educational agency or institution that the information will not be disclosed to any other party, except as provided under state law, without the prior written consent of the parent of the student.

Unless the parent or the eligible student has given written consent for disclosure of confidential information, a Record of Access for information disclosed to a juvenile justice provider must be maintained for seven (7) years from the date the information is disclosed.

For records provided to a juvenile service provider, a fee equal to the fee charged under the Public Information Act may be charged unless:

- A memorandum of understanding between the requesting provider and the disclosing provider prohibits the payment of a fee, provides for a waiver of a fee, or provides an alternate method of assessing a fee.

Conditions that Apply to Disclosure of Information to Organizations Conducting Studies

34 C.F.R. § 99.31(a)(6)(i)(ii)

Under FERPA, and for the purposes of the administration of Records, the term "organization" includes, but is not limited to, federal, state, and local agencies, and independent organizations:

Information may be disclosed to organizations conducting studies for, or on behalf of, educational agencies or institutions to:

- Develop, validate, or administer predictive tests;
- Administer student aid programs; or
- Improve instruction.

The agency or institution may disclose personally identifiable information to organizations conducting studies, and a state or local educational authority or agency headed by the comptroller general of the United States, the Attorney General of the United States, the Secretary of Education, or state and local educational authorities may re-disclose personally identifiable information only if:

- The study is conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization;
- The information is destroyed when no longer needed for the purposes for which the study was conducted; and
- The agency or institution enters into a written agreement with the organization that:
 - Specifies the purpose, scope, and duration of the study or studies and the information to be disclosed;
 - Requires the organization to use personally identifiable information from education records only to meet the purpose or purposes of the study as stated in the written agreement;
 - Requires the organization to conduct the study in a manner that does not permit personal identification of parents and students, as defined in the part, by anyone other than representatives of the organization with legitimate interests; and
 - Requires the organization to destroy all personally identifiable information when the information is no longer needed for the purposes for which the study was conducted and specifies the time period in which the information must be destroyed.

CONDITIONS THAT APPLY TO JUDICIAL ORDER OR LAWFUL ISSUED SUBPOENA

34 C.F.R. § 99.31(a)(9)(ii)(iii)

The educational agency or institution may disclose information to comply with a judicial order or lawfully issued subpoena only if the agency or institution makes a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance, so that the parent or eligible student may seek protective action, unless the disclosure is in compliance with:

- A federal grand jury subpoena and the court has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed; or
- Any other subpoena issued for a law enforcement purpose and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed.

If an educational agency or institution initiates legal action against a parent or student, the educational agency or institution may disclose to the court, without a court order or subpoena, the education records of the student that are relevant for the educational agency or institution to proceed with the legal action as plaintiff.

If a parent or eligible student initiates legal action against an educational agency or institution, the educational agency or institution may disclose to the court, without a court order or subpoena, the student's education records that are relevant for the educational agency or institution to defend itself.

Conditions that Apply to Disclosure of Information in Health and Safety Emergencies

34 C.F.R. § 99.36(a)

An educational agency or institution may disclose personally identifiable information from an education record to appropriate parties, including parents or an eligible student, in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals.

Nothing shall prevent an educational agency or institution from:

- Including in the education records of a student appropriate information concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community;
- Disclosing appropriate information concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community, to teachers and school officials within the agency or institution who the agency or institution has determined have legitimate educational interests in the behavior of the student; or
- Disclosing to teachers and school officials in other schools who have been determined to have legitimate educational interests in the behavior of a student appropriate information concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the school community.

In making a determination regarding disclosing information in health and safety emergencies, an educational agency or institution may take into account the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals.

If the educational agency or institution determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals.

If, based on the information available at the time of the determination of a health or safety emergency, there is a rational basis for the determination, the United States Department of Education will not substitute its judgment for that of the educational agency or institution in evaluating the circumstances and making its determination.

REDISCLASURE OF INFORMATION

26 U.S.C. § 152; 34 C.F.R. Part 99

Sender Responsibilities

34 C.F.R. §§ 99.31(a)(9)(11), 99.33(c)

An educational agency or institution may disclose personally identifiable information from an education record only on the condition that the party to whom the information is disclosed will not disclose the

information to any other party without the prior consent of the parent or eligible student, except that the conditional re-disclosure requirements do not apply to disclosures made:

- Pursuant to court orders, lawfully issued subpoenas, or litigation as otherwise defined in the When Consent is Not Required to Disclose Information guidelines;
- In compliance with the Disclosure of Directory Information guidelines; or
- To the parent of a student who is not an eligible student or to the student.

An educational agency or institution must inform a party to whom disclosure is made of the requirements of re-disclosure of information, except when the disclosure is pursuant to When Consent is Not Required to Disclose Information.

Recipient Responsibilities

34 C.F.R. § 99.33(a)(b)

The officers, employees, and agents of a party that receives education records from an educational agency or institution must use the information only for the purposes for which the disclosure was made, except that the party receiving the information may make further disclosures of the information on behalf of the educational agency or institution if:

- The disclosures meet the requirements of When Consent is not Required to Disclose Information guidelines; and
- The educational agency or institution has complied with the requirements of the Record of Access guidelines.

PUBLIC INFORMATION

20 U.S.C. § 1413(a)(8); 34 C.F.R. Part 300212; Texas Government Code

Under the fundamental philosophy of the American constitutional form of representative government that adheres to the principle that government is the servant and not the master of the people, it is the policy of this state that each person is entitled, unless otherwise expressly provided by law, at all times to complete information about the affairs of government and the official acts of public officials and employees. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created. The provisions of this chapter shall be liberally construed to implement this policy.

Under the Public Information Act (“PIA”) and this framework, the term “governmental body” encompasses all public entities in the executive and legislative branches of government at the state and local levels.

Under the PIA and this framework, “public information” means information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- By a governmental body; or

- For a governmental body and the governmental body owns the information or has a right of access to it.

The media on which public information is recorded include:

- Paper;
- Film;
- A magnetic, optical, or solid state device that can store an electronic signal;
- Tape;
- Mylar;
- Linen;
- Silk; and
- Vellum.

The general forms in which the media containing public information exist include a book, paper, letter, document, printout, photograph, film, tape, microfiche, microfilm, photostat, sound recording, map, drawing, and a voice, data, or video representation held in computer memory.

To ensure that all requests and responses made under the PIA comply with the law, the requestor and responding entity should follow the *2016 Public Information Act Handbook*.

The LEA must make available to parents of children with disabilities and to the general public all documents relating to the eligibility of the agency or institution under the IDEA.

VIDEO SURVEILLANCE IN SPECIAL EDUCATION CLASSROOMS

DEFINITIONS

For purposes of this policy, the following terms will have the meanings set forth below:

“Parent” means a person standing in parental relation to a child, including a guardian, and whose child receives special education and related services and assigned to one or more self-contained classrooms or other special education settings for at least 50 percent of the instructional day.

“Staff member” means a teacher, related service provider, paraprofessional, counselor, or educational aide assigned to work in a self-contained classroom or other special education setting.

“Board” means a majority of the **Arrow Academy** Board of Directors.

“School business day” means a day that campus or **Arrow Academy** administrative offices are open.

“Time-Out” has the meaning assigned by Education Code 37.0021.

“Self-contained classroom” means a classroom on a regular **Arrow Academy** campus (*i.e.*, a campus that serves students in general education and students in special education) in which a majority of the students in regular attendance are provided special education and related services and have one of the following instructional arrangements/settings described in the Student Attendance Accounting Handbook adopted by the Texas Education Agency (“TEA”):

- self-contained (mild/moderate/severe) regular campus;
- full-time early childhood (preschool program for children with disabilities) special education setting;
- residential care and treatment facility--self-contained (mild/moderate/severe) regular campus;
- residential care and treatment facility--full-time early childhood special education setting;
- off home campus--self-contained (mild/moderate/severe) regular campus; or
- off home campus--full-time early childhood special education setting.

“Other special education setting” means a classroom on a separate **Arrow Academy** campus (*i.e.*, a campus that serves only students who receive special education and related services) in which a majority of the students in regular attendance are provided special education and related services and have one of the following instructional arrangements/settings described in the Student Attendance Accounting Handbook adopted by the TEA:

- residential care and treatment facility--separate campus; or
- off home campus--separate campus.

“Incident” means an event or circumstance that involves alleged “abuse” or “neglect,” as those terms are described in Texas Family Code Section 261.001, of a student by a **Arrow Academy** employee or alleged “physical abuse” or “sexual abuse,” as those terms are described in Texas Family Code Section 261.410, of a student by another student; and allegedly occurred in a self-contained classroom or other special education setting in which video surveillance is conducted under Texas Education Code Section 29.022.

PROMOTION OF STUDENT SAFETY

Arrow Academy will, upon receipt of a written request authorized by this policy, provide equipment, including a video camera, to the school or schools specified in the request

A school or campus that receives equipment due to a video surveillance request shall place, operate, and maintain one or more video cameras in self-contained classrooms and other special education settings in which a majority of the students in regular attendance are provided special education and related services and are assigned to one or more self-contained classrooms or other special education settings for at least 50 percent of the instructional day.

Arrow Academy may not:

- allow regular or continual monitoring of video recorded under this policy; or
- use video recorded under this policy for routine teacher evaluation or monitoring or for any purpose other than the promotion of student safety.

PROCEDURES FOR REQUESTING VIDEO SURVEILLANCE

Video surveillance under this policy is for the purpose of promoting student safety in certain self-contained classrooms and other special education settings.

Parent Request

A parent may request in writing that equipment be provided to the school or campus at which the parent's child receives special education services in one or more self-contained classrooms or other special education settings.

Board Request

The Board may request in writing that equipment be provided to one or more specified schools or campuses at which one or more children receive special education services in self-contained classrooms or other special education settings.

Principal or Assistant Principal Request

The Principal or Assistant Principal of a school or campus at which one or more children receive special education services in self-contained classrooms or other special education settings may request in writing that equipment be provided to the Principal's or Assistant Principal's school or campus.

Staff Member Request

A staff member assigned to work with one or more children receiving special education services in a self-contained classroom or other special education settings may request in writing that equipment be provided to the school or campus at which the staff member works.

Additional Procedures

A school or campus that receives equipment as a result of the request of a parent or staff member is required to place equipment only in classrooms or settings in which the parent's child is in regular attendance or to which the staff member is assigned, as applicable.

A school or campus that receives equipment as a result of the request by the Board, Principal, or Assistant Principal is required to place equipment only in classrooms or settings identified by the requestor, if the requestor limits the request to specific classrooms or settings.

Arrow Academy shall designate an administrator (the “Administrator”) at the **Arrow Academy** Central Office with responsibility for coordinating the provision of equipment to schools and campuses in compliance with this policy.

A written request must be submitted and acted on as follows:

- A parent, staff member, or Assistant Principal must submit a request to the Principal or designee of the school or campus addressed in the request, and the Principal or designee must provide a copy of the request to the Administrator.
- A Principal must submit a request by the Principal to the Administrator.
- The Board must submit a request to the Administrator, and the Administrator must provide a copy of the request to the Principal or designee of the school or campus addressed in the request.

Arrow Academy shall provide a response to a request not later than the seventh school business day after receipt of the request by the person to whom it must be submitted that either authorizes the request or states the reason for denying the request. Unless granted an extension by the TEA, the school or campus must begin operation of a video camera in compliance with this policy not later than the 45th school business day, or the first school day after the 45th school business day if that day is not a school day, after the request is authorized.

A parent of a student whose admission, review, and dismissal (“ARD”) committee has determined that the student’s placement for the following school year will be in a classroom or other special education setting in which a video camera may be placed to make a request for the video camera by the later of the date on which the current school year ends, or the 10th school business day after the date of the placement determination by the ARD committee. Unless the TEA grants an extension of time, the school or campus must begin operation of a video camera not later than the later of the 10th school day of the fall semester or the 45th school business day, or the first school day after the 45th school business day if that day is not a school day, after the date the request is made.

COORDINATION OF EQUIPMENT

The administrator responsible for coordinating equipment delivery to campuses shall be Chief Operating Officer or Director of Operations.

ADVANCE WRITTEN NOTICE TO CAMPUS STAFF AND PARENTS

Before **Arrow Academy** activates a video camera in a classroom or other special education setting, **Arrow Academy** shall provide written notice of the placement to all school or campus staff and to the parents of each student attending class or engaging in school activities in the classroom or setting. This notice shall be in the form of a “Notice of Installation of Video and Audio Recording Equipment” form adopted by the Superintendent or designee, and shall be distributed to all parties prior to the start of recording.

At **Arrow Academy**’s discretion, campuses may post a notice at the entrance of any self-contained classroom or other special education setting in which video camera are placed stating that video and audio surveillance are conducted in the classroom or setting.

TIMES OF OPERATION

Cameras shall be operational at all times during the instructional day when students are in the self-contained classroom or other special education setting.

A school or campus that places a video camera in a classroom or other special education setting shall operate and maintain the video camera in the classroom or setting, as long as the classroom or setting continues to satisfy the requirements under this policy, for the remainder of the school year in which the school or campus received the request, unless the requestor withdraws the request in writing.

If for any reason a school or campus will discontinue operation of a video camera during a school year, not later than the fifth school day before the date the operation of the video camera will be discontinued, the school or campus must notify the parents of each student in regular attendance in the classroom or setting that operation of the video camera will not continue unless requested by a person eligible to make a request.

Not later than the 10th school day before the end of each school year, the school or campus must notify the parents of each student in regular attendance in the classroom or setting that operation of the video camera will not continue during the following school year unless a person eligible to make a request for the next school year submits a new request.

This policy applies to placement, operation, and maintenance of a video camera in a self-contained classroom or other special education setting during the regular school year and extended school year services.

RESTRICTIONS ON VIDEO RECORDING

Video cameras must be capable of covering all areas of the classroom or other special education setting, including a room attached to the classroom or setting used for time-out. Video cameras must also be capable of recording audio from all areas of the classroom or other special education setting, including a room attached to the classroom or setting used for time-out.

The inside of a bathroom or any area in the classroom or other special education setting in which a student's clothes are changed may not be visually monitored, except for incidental coverage of a minor portion of a bathroom or changing area because of the layout of classroom or setting.

RETENTION OF RECORDINGS

Arrow Academy shall retain video recordings from a video camera placed under this policy for at least three months after the date the video was recorded.

If a person described in Section 8-a (Requests to View a Video Recording) as eligible to receive a copy of a video requests to view a video recording from a video camera placed under this policy, **Arrow Academy** must retain the recording from the date of receipt of the request until the person has viewed the recording and a determination has been made as to whether the recording documents an alleged incident. If the recording documents an alleged incident, **Arrow Academy** shall retain the recording until the alleged incident has been resolved, including the exhaustion of all appeals.

A video recording under this policy is a governmental record only for purposes of 37.10, Penal Code.

CONFIDENTIALITY OF VIDEO RECORDINGS

A video recording of a student is confidential and may not be released or viewed except as provided by Texas Education Code Section 29.022; the Family Educational Rights and Privacy Act of 1974 (“FERPA”); or other applicable law.

Requests to View a Video Recording

Arrow Academy will release a recording for viewing by:

- A **Arrow Academy** employee who is involved in an alleged incident that is documented by the recording and has been reported to **Arrow Academy**, on request of the employee;
- A parent of a student who is involved in an alleged incident that is documented by the recording and has been reported to **Arrow Academy**, on request of the parent;
- Appropriate Department of Family and Protective Services (“DFPS”) personnel as part of an investigation under Section 261.406, Family Code;
- A peace officer, a school nurse, a district-level or campus-level administrator trained in de-escalation and restraint techniques as provided by commissioner rule, or a human resources staff member designated by the Board in response to a report of an alleged incident or an investigation of **Arrow Academy** personnel or a report of alleged abuse committed by a student; or
- Appropriate TEA or State Board for Educator Certification personnel or agents as part of an investigation.

A contractor or employee performing job duties relating to the installation, operation, or maintenance of video equipment or the retention of video recordings who incidentally views a video recording is not in violation of this policy.

If a person described by subsections (4) or (5) above who views the video recording believes that the recording documents a possible violation under Subchapter E, Chapter 261, Family Code, the person shall notify the DFPS for investigation in accordance with Family Code Section 261.406.

If any person described by subsections (3), (4), or (5) above who views the recording believes that the recording documents a possible violation of **Arrow Academy** policy, the person may allow access to the recording to appropriate legal and human resources personnel. A recording believed to document a possible violation of **Arrow Academy** policy relating to the neglect or abuse of a student may be used as part of a disciplinary actions against **Arrow Academy** personnel and shall be released at the request of the student's parent in a legal proceeding.

If **Arrow Academy** determines that the recording is an "education record," **Arrow Academy** shall release the recording in accordance with FERPA. State law does not limit the access of a student's parent to a record regarding the student under FERPA or other law.

In order to review recordings for potential release, and operation and maintenance of the equipment, the following individuals shall have access to the video equipment: list out titles/departments that may have access to video equipment.

PROCEDURES FOR REPORTING A COMPLAINT AND/OR REQUESTING TO VIEW RECORDING

Video and audio recording equipment shall be used for safety purposes to access documented, specific incidents. To report a complaint of alleged abuse or neglect to **Arrow Academy** and/or to request to view a recording allowed by Section 8 above, a written "Incident Report Form," as adopted by the Superintendent or designee, shall be used by the requestor. This form will be completed to the extent of known information, and returned to the Superintendent or designee for validation.

GRIEVANCE PROCEDURES

The special education dispute resolution procedures in 34 C.F.R. 300.151-300.153 and 300.504-300.515, do not apply to complaints alleging that **Arrow Academy** has failed to comply with Education Code Section 29.022. Complaints alleging violations of **Arrow Academy's** video surveillance obligations for special education settings under Education Code Section 29.022 must be addressed through **Arrow Academy's** Student and Parent Grievance Process (see PG-3.XX), as adopted by the Board.

Arrow Academy, a parent, staff member, or an administrator may request an expedited review by the TEA of **Arrow Academy's** (1) denial of a request, (2) request for an extension of time to begin operation of a video camera, or (3) determination to not release a video recording to an individual. If **Arrow Academy**, a parent, staff member or administrator requests an expedited review, the TEA shall notify all other interested parties of the request.

If an expedited review has been requested, the TEA shall issue a preliminary judgment as to whether **Arrow Academy** is likely to prevail on the issue under a full review by the TEA. If the TEA determines **Arrow Academy** is not likely to prevail, **Arrow Academy** must fully comply with the policy notwithstanding an appeal of the TEA's decision. The TEA shall notify the requestor and **Arrow Academy**, if **Arrow Academy** is not the requestor, of the TEA's determination.

FUNDING

Arrow Academy may solicit and accept gifts, grants, and donations from any person to implement the requirements in Education Code Section 29.022. **Arrow Academy** is not permitted to use Individuals with Disabilities Education Act, Part B, funds or state special education funds to implement the requirements of Education Code Section 29.022.

NO WAIVER OF IMMUNITY

The requirements described by this policy do not:

- Waive any immunity from liability of **Arrow Academy**, or of **Arrow Academy** officers or employees; or
- Create any liability for a cause of action against **Arrow Academy** or against **Arrow Academy** officers or employees.

COMPLIANCE WITH GENERAL AND FISCAL GUIDELINES

Leadership Education Foundation must comply with the Texas Education Agency General and Fiscal Guidelines.

CHARGING COSTS TO SPECIAL EDUCATION GRANT

Leadership Education Foundation may charge costs to a special education grant when those costs follow the **Leadership Education Foundation's** local written procedures for allowability of costs and meet the following criteria:

- Are reasonable for the performance of the special education grant and are allocable under the applicable cost principles;
- Conform to limitations or exclusions set forth in applicable cost principles or the special education grant agreement as to types or amount of costs;
- Are consistent with policies and procedures that apply uniformly to federally or state-funded activities funded from other sources;
- Are accorded consistent treatment among all grant programs, regardless of funding source;
- Are not included as a cost or used to meet cost-sharing or matching requirements of any other federally or state-funded program in the current or a prior period; and
- Are adequately documented.

REASONABLE COST

A cost can be considered reasonable if it meets the following standards:

- The cost is of a type generally recognized as ordinary and necessary for the operation of **Leadership Education Foundation** or grant performance;

- Restrictions or requirements are imposed for generally accepted sound business practices, arms-length bargaining, federal or state laws and regulations, and grant award terms and conditions;
- Consideration is given to market prices for comparable goods or services for the geographical area;
- Individuals are acting with prudence in the circumstances of responsibility to **Leadership Education Foundation** and federal and state government; and
- There are no significant deviations from established practices of **Leadership Education Foundation** that may unjustifiably increase grant costs.

ALLOCATING COSTS

A cost is allocable to the special education grant in accordance with relative benefits received if it is treated consistently with other costs incurred for the same purposes in like circumstance and if it meets the following:

- Is incurred specifically for the grant;
- Benefits both the grant and the other work and can be distributed in reasonable proportion to the benefits received; and

Is necessary to the overall operation of **Leadership Education Foundation** and is assignable in part to the special education grant award in accordance with the principles of this framework.

STATE FUNDING: SPECIAL ALLOTMENTS

Arrow Academy shall maintain records of students participating in special programs in accordance with the Commissioner of Education’s rules.

19 TAC 129.21.

SPECIAL EDUCATION ALLOTMENT

Each open-enrollment charter school will receive an annual allotment equal to the adjusted basic allotment multiplied by an amount identified in state law for each student receiving special education and related services in a mainstream instructional arrangement. For each full-time equivalent student receiving special education and related services in average daily attendance in an instructional arrangement other than a mainstream instructional arrangement, the open-enrollment charter school is entitled to an annual allotment equal to the adjusted basic allotment multiplied by a weight determined according to instructional arrangement as set forth in Section 48.102, Texas Education Code.

Funds allocated under this section, other than an indirect cost allotment established under State Board of Education (“SBOE”) rule, must be used in the special education program under Subchapter A, Chapter 29 of the Texas Education Code.

Education Code 48.102.

COMPENSATORY EDUCATION ALLOTMENT

Arrow Academy must use funds allocated under TEC §48.104 for a purpose authorized in Section 48.104(j-1), (k) of the Texas Education Code.

Education Code 48.104.

Funds allocated under Education Code Section 48.104 shall be used to fund supplemental programs and services designed to eliminate any disparity in performance on assessment instruments administered under Subchapter B (School-Based Health Centers), Chapter 39, Texas Education Code, or disparity in the rates of high school completion between students at risk of dropping out of school, as defined by Section 29.081 of the Education Code (Compensatory, Intensive, and Accelerated Instruction) and all other students. Specifically, the funds, other than an indirect cost allotment established under SBOE rule, which may not exceed 45 percent, may be used to meet the costs of providing a compensatory, intensive, or accelerated instruction program under Education Code Section 29.081 or an alternative education program established under Education Code Section 37.008 (Disciplinary Alternative Education Programs) or to support a program eligible under Title I of the Elementary and Secondary Education Act of 1965, as provided by Pub. L. No. 103-382 and its subsequent amendments, and by federal regulations implementing that Act, at a campus at which at least 40 percent of the students are educationally disadvantaged. In meeting the costs of providing a compensatory, intensive, or accelerated instruction program under Education Code Section 29.081, **Arrow Academy's** compensatory education allotment shall be used for costs supplementary to the regular education program, such as costs for program and student evaluation, instructional materials and equipment and other supplies required for quality instruction, supplemental staff expenses, salary for teachers of at-risk students, smaller class size, and individualized instruction.

Education Code 48.104(k).

BILINGUAL EDUCATION ALLOTMENT

For each student in average daily attendance in a bilingual education or special language program under Subchapter B, Chapter 29, an open-enrollment charter school is entitled to an annual allotment equal to the adjusted basic allotment multiplied by 0.1. Funds allocated under this section, other than an indirect cost allotment established under SBOE rule, must be used in providing bilingual education or special language programs under Subchapter B, Chapter 29, and must be accounted for under existing agency reporting and auditing procedures. An open-enrollment charter school's bilingual education or special language allocation may only be used for program and student evaluation, instructional materials and equipment, staff development, supplemental staff expenses, salary supplements for teachers, and other supplies required for quality instruction and smaller class size.

Education Code 12.104(b)(3)(G), 42.105.

CAREER AND TECHNOLOGY EDUCATION ALLOTMENT

For each full-time equivalent student in average daily attendance in an approved career and technology education program in grades 7 through 12 or in career and technology education

programs for students with disabilities in grades 7 through 12, an open-enrollment charter school is entitled to:

- an annual allotment equal to the adjusted basic allotment multiplied by a weight of 1.35; and
- \$50 for each of the following in which the student is enrolled:
 - two or more advanced career and technology education classes for a total of three or more credits;
 - a campus designated as a P-TECH school under Section 29.566; or
 - a campus that is a member of the New Tech Network and that focuses on project-based learning and work-based education.

For purposes of this allotment, “full-time equivalent student” means 30 hours of contact a week between a student and career and technology education program personnel.

At least 55% of the funds allocated under this section must be used in providing career and technology education programs in grades 7 through 12.

Education Code 48.106.

Leadership Education Foundation may enter into a shared services cooperative or shared services arrangement to jointly operate its special education programs. Funds to which the cooperating schools/charter schools are entitled may be allocated to the schools/charter schools jointly as shared services arrangement units or shared services arrangement funds in accordance with the written contract establishing the shared services arrangement, Texas Education Agency Guidance, and Texas Government Code Chapter 791 (interlocal agreements).

A contract establishing a shared services cooperative must, at a minimum:

- establish clear procedures for administering services under the direction and control of the cooperative and for assigning responsibility for all costs and liabilities associated with services provided under the contract;
- Establish the duties, responsibilities, and accountability of the fiscal agent and of each member for services provided under the contract;
- Establish clear procedures for withdrawal of a member from the agreement and for the dissolution and winding up of the affairs of the cooperative; and
- Be approved in writing by the Commissioner of Education before any services are provided, in the form of a material non-expansion amendment.

COORDINATION OF FUNDS TO PURCHASE INSTRUCTIONAL MATERIALS

Instructional materials adopted by **Arrow Academy** must be provided to students at no cost.

If **Arrow Academy** chooses to coordinate with the National Instructional Materials Access Center (NIMAC) when purchasing print instructional materials, it must acquire the print instructional materials in the same manner and subject to the same conditions as the Texas Education Agency acquires print instructional materials.

If **Arrow Academy** chooses not to coordinate with the NIMAC when purchasing print instructional materials, it will provide instructional materials to blind persons or other persons with print disabilities in a timely manner and shall provide assurance of compliance with this policy to the Texas Education Agency.

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If **Arrow Academy** chooses not to coordinate with the NIMAC when purchasing print instructional materials, it will provide instructional materials to blind persons or other persons with print disabilities in a timely manner and shall provide assurance of compliance with this policy to the Texas Education Agency.

NONEDUCATIONAL COMMUNITY BASED SUPPORT SERVICES

Students with disabilities and their families may be eligible to receive noneducational community based support services paid for by public funds.

The Texas Education Agency (“TEA”) is responsible for establishing procedures and criteria for the allocation of noneducational funds to open-enrollment charter schools for the provision of noneducational community-based support services to certain students with disabilities and their families so that those students may receive a free appropriate public education (“FAPE”) in the least restrictive environment.

Education Code 29.013(a).

Arrow Academy shall use any funds allocated under Education Code Section 29.013 only for eligible students with disabilities who would remain or would have to be placed in residential facilities primarily for educational reasons without the provision of noneducational community-based support services.

Education Code 29.013(b).

The support services may include in-home family support, respite care, and case management for families with a student who otherwise would have been placed by an open-enrollment charter school in a private residential facility.

Education Code 29.013(c).

The provision of services under Education Code Section 29.013 does not supersede or limit the responsibility of other agencies to provide or pay for costs of noneducational community-based support services to enable any student with disabilities to receive a FAPE in the least restrictive environment. Specifically, services provided under Education Code Section 29.013 may not be used for a student with disabilities who is currently placed or who needs to be

placed in a residential facility primarily for noneducational reasons. Funds cannot be used to cover services already required through the student's individual education program or for long-term care.

Education Code 29.013(d).

COMPLIANCE

Arrow Academy shall use Individuals with Disabilities Education Act ("IDEA") Part B funds received to:

- comply with the federal maintenance of effort ("MOE") requirements;
- supplement State, local and other Federal funds and not supplant such funds; and
- pay the excess costs of providing special education and related services to children with disabilities and must be used to supplement State, local, and other Federal funds.

34 CFR 300.202, 20 U.S.C. 1413(a)(2).

REDUCING LEVEL OF EXPENDITURES

Funds provided to **Arrow Academy** will not be used to reduce the level of expenditures for the education of students with disabilities made by **Arrow Academy** below the level of those funds for the preceding year.

20 U.S.C. 1423(a)(2)(A)(iii), Appendix E to Part 300.

Arrow Academy may reduce the level of expenditures if the reduction is attributable to:

- Voluntary departure, retirement, or departure for just cause of special education personnel;
- A decrease in enrollment of students with disabilities;
- The termination of the obligation of **Arrow Academy** to provide a special education program to a particular student with a disability that is an exceptionally costly program because the child left **Arrow Academy**, aged out of services, or no longer needs special education;
- The termination of costly expenditures for long-term purchases; or
- The assumption of cost by the high cost fund operated by the Texas Education Agency.

34 CFR 300.204.

EXCESS EXPENDITURES

Having complied with MOE and excess costs requirements, IDEA Part B funds provided to the school will be used for the following activities:

- For the costs of special education and related services, and supplementary aids and services, provided in a regular class or other education-related setting to the child with a disability in accordance with the individualized education program ("IEP") of the child, even if nondisabled children benefit from such services;

- To develop and implement coordinated, early intervening educational services in compliance with the child find and administration requirements, including:
 - Early intervening services, which may include interagency financing structures, for children in kindergarten through grade 12 (with a particular emphasis on children in kindergarten through grade 3) who are not currently identified as needing special education or related services but who need additional academic and behavioral support to succeed in a general education environment;
 - **Arrow Academy** may not use more than 15 percent of the amount received under IDEA Part B for any fiscal year, less any adjustments by **Arrow Academy** to local fiscal effort, if any, in combination with other amounts, which may include amounts other than education funds, to develop and implement coordinated, early intervening services; and
- To establish and implement cost or risk-sharing funds, consortia, or cooperatives for **Arrow Academy**, or for **Arrow Academy**'s working in a consortium of which **Arrow Academy** is a part, to pay for high-cost special education and related services.
- **Arrow Academy** may use IDEA Part B funds to purchase appropriate technology for recordkeeping, data collection, and related case management activities of teachers and related services personnel providing services described in the IEP that is needed for the implementation of such case management activities.

34 CFR 300.208.

EARLY INTERVENING SERVICES

Funds made available for early intervening services, must supplement not supplant funds available under the Elementary and Secondary Education Act ("ESEA").

34 CFR 300.226(e).

USE OF IDEA PART B FUNDS FOR TITLE 1 PROGRAMS

Notwithstanding any other provisions related to commingling of funds, **Arrow Academy** may use IDEA Part B funds received for any fiscal year to carry out a Title 1, Part A school wide programs under ESEA, except that the amount may not exceed:

- the amount received by the school under IDEA Part B for that fiscal year; divided by
- the number of students with disabilities in the jurisdiction of the school; and multiplied by
- the number of students with disabilities participating in the school wide program.

34 CFR 300.206; 20 U.S.C. 1413.

COMPLIANCE WITH FEDERAL FUNDING REQUIREMENTS: TITLE 1

To the extent required under Title 1 of the ESEA, **Arrow Academy** shall ensure equity among school programs in staff/student ratios and in expenditures of money for curriculum materials and instructional supplies. "Staff" shall include teachers, administrators, and auxiliary personnel. In special programs, such as special education and bilingual education, a lower

ratio may be maintained and more money may be spent as necessary to fulfill other legal requirements.

The parental involvement program shall be set up in accordance with requirements of Title 1 of the ESEA, as applicable. Parental involvement is encouraged and required in the planning and decision-making process for the school and for the campus.

DISTRICT AND CAMPUS IMPROVEMENT PLANS

It is the policy of **Arrow Academy** to annually conduct a comprehensive needs assessment and to conduct district and campus improvement plans, if required by state and federal funding requirements.