

# COMANCHE SPECIAL SERVICES SSA

## POLICIES & OPERATING GUIDELINES

Adopted by  
Management Board  
January 7, 2015

|                  |                 |               |
|------------------|-----------------|---------------|
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|                  |                 | Rick Howard   |
| Cross Plains ISD | Superintendent: | _____         |
|                  |                 | Phil Mitchell |
| Deleon ISD       | Superintendent: | _____         |
|                  |                 | Dana Marable  |
| Gustine ISD      | Superintendent: | _____         |
|                  |                 | Ken Baugh     |
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|                  |                 | Don Rhodes    |
| Rising Star ISD  | Superintendent: | _____         |
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| Sidney ISD       | Superintendent: | _____         |
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## *BA.SE.1 SSA Organization Policies*

### *BA.SE.1.A Management Board*

The Management Board of Comanche Special Services SSA will be comprised of the superintendents of the following member schools, or their designated representative:

1. Comanche
2. Cross Plains
3. De Leon
4. Gustine
5. May
6. Rising Star
7. Sidney

### GENERAL PROVISIONS

1. Each Member District will cooperate in observing and implementing the Guidelines established by the Management Board of the Comanche Special Services Shared Services Agreement and approved by each Member School District's Board of Trustees. Further, all participating schools in the Comanche Special Services SSA will operate a comprehensive special education program in compliance with the regulations set forth for disabled students by State Board of Education Rules, The Texas Education Agency, Texas State Law, and Federal Law and Regulations.
2. The purpose of Comanche Special Services SSA is:
  - a) To ensure that each disabled child will realize his or her personal, social, and economic potential,

- b) To ensure the opportunity for the disabled child to achieve personal happiness and occupational competency and to become a worthy member of the society in which he or she lives,
  - c) To ensure that all disabled children served by the Comanche Special Services SSA have available to them a free appropriate education,
  - d) To ensure that all disabled children are served in the least restrictive environment,
  - e) To ensure that all disabled children of the Comanche Special Services SSA receive related services to meet their special needs,
  - f) To provide assistance in all areas of program planning and development as requested by the Member District, and
  - g) To provide instructional leadership to each member school in its efforts to educate the disabled children of its district.
1. Comanche Special Services SSA will cooperate with the Region XIV Education Service Center in implementing promotion and coordinating programs to more fully serve all of the students needing services within the confines of the area served by the Comanche Special Services SSA.
  2. Comanche Special Services SSA activities and responsibilities will be limited to those outlined in the regulations set forth for disabled students by State Board of Education Rules, the Texas Education Agency, Texas State Law, and Federal Law and Regulations.
  3. Management

See: Shared Services Agreement

***BAA.SE.1 Entry In The Shared Service Arrangement***

See: Shared Services Agreement

***BAA.SE.2 Withdrawal Of Member District***

See: Shared Services Agreement



### ***BAA.SE.3 Dissolution Of Shared Service Arrangement***

See: Shared Services Agreement

### ***BAA.SE.4 Adopting Policies and Operating Guidelines***

The required state and federal policies and administrative procedures will be presented by the Director of Special Education and adopted by the Management Board. The Operating Guidelines will be developed by the Director of Special Education, or Designee and presented to the Management Board for approval, change, or rejection. The policies/administrative procedures/ operating guidelines shall address all aspects of the Shared Service Arrangement administration and operation including but not limited to all matters relating to personnel, fiscal responsibilities, and programs.

A copy of these policies/administrative procedures/operating guidelines shall be filed with each administrator of the Shared Service Arrangement schools. All schools in Comanche Special Services SSA, will abide by the policies/administrative procedures/ operating guidelines adopted by the Management Board.

### ***BF.SE.1 Policies In Conflict***

The Comanche Special Services SSA, has determined as a policy that it will follow the information, rules, regulations, and laws contained in the legal framework promulgated by TEA on the Region 18 website. At any time that these rules/regulations/laws conflict with Comanche SSA policies and procedures, the SSA will follow the law as delineated by TEA.

### ***BF.SE.2 TASB***

All school districts within the Shared Service Arrangement utilize the TASB policy service; therefore, the Shared Service Arrangement is also bound to those guidelines as long as there is no conflict with the Shared Service Arrangement policies/administrative procedures.

### ***BQA.SE.1 Evaluation Of Operational Guidelines***

The Comanche Special Services SSA, staff will assess informally if the operating guidelines are being implemented correctly or if revisions need to be made.

### ***CAA.SE.1 Fiscal Responsibility***

See: Shared Services Agreement

### ***CBA.SE.1 Fiscal Management***

See: Shared Services Agreement

Audit exceptions will be handled by agreement of the Management Board. Other fiscal matters not specifically outlined in these policies will be the responsibility of the Management Board.

Federal funds will be managed by the Director of Special Education, or Designee with the approval of the Management Board. Expenditures will be prepared and paid by the SSA office.

### *CH.SE.1 Provision of Technology*

There are two general purposes under which Comanche Special Services SSA, has sent technology resources to districts in previous years:

1. Individual student needs based on assistive technology evaluation
2. Support of the instructional program in special education classrooms

#### *CH.SE.1.A Useful Life*

If technology devices are provided to districts from Comanche Special Services SSA, the responsibility for repair and upkeep of technology devices belongs to the SSA.

#### *CH.SE.1.B Technology Provision Procedures*

Comanche Special Services SSA, provides support to districts in the area of technology under purpose number 2.

#### *CH.SE.1.C Technology Funding*

Comanche Special Services SSA, will flow funds to districts for the purchase of technology using the same formula that is in the Comanche Special Services SSA, contract for the collection and distribution of funds. The Comanche Special Services SSA, Management Board, as a part of the budget approval process will determine the annual allocation of funds for this purpose. The local district will be responsible for determining what equipment to purchase and in which special education classrooms to place the equipment.

### *CH.SE.1.D Student Specific Technology*

Consistent with the provision of adaptive equipment and assistive technology, any computer equipment which is purchased for the direct support of a special education student based on an evaluation of the student's assistive technology needs and the decision of an ARD committee, will be purchased directly by Comanche Special Services SSA,. At such time as the equipment is no longer needed or used by the individual student, the equipment will return to Comanche Special Services SSA,. Provisions contained in the Comanche Special Services SSA, contract relative to the disposition of equipment override this.

### *CMD.SE.1 SERS Program*

Instructional Materials Services:

1. The purposes of the SERS are:
  - a) To provide instructional and support staff with media and materials for direct use with handicapped children at the local level;
  - b) To assist local special education personnel in selection of appropriate media, materials, and other resources for student with disability;
  - c) To create a system for the management and accountability of resources in the local special education for student with disability;
  - d) To provide for in-service training in the area of proper use of materials to the special education instruction staff.
2. The SERS has been developed to serve the following eligible users:

- a) Student with disability - the recipients of instructional materials, the beneficiaries of the services, and the persons whose progress is the central focus of the entire system;
- b) Special education teachers and aides - the recipients of instructional materials for use with student with disability and technical assistance regarding other pertinent aspects of media and materials services;
- c) Regular education teachers and aides working with handicapped children in the mainstream;
- d) Parents of student with disability;
- e) Special education support staff;
- f) Student teachers;
- g) Special / regular education administrative personnel.

3. Information Retrieval System:

The Comanche Special Services SSA, provides an information retrieval system designed to match appropriate instructional materials to the learning needs of students. This consists of:

- a) A computerized retrieval system;
- b) Consultants who are available to assist in the selection of materials for specific students.

4. Dissemination of Information Concerning SERS and materials include:

- a) Newsletters;
- b) Office memos;
- c) Short term circulation to teachers in order to evaluate use with specific learners;
- d) Staff development meetings;
- e) Faculty meetings.

5. Training / Technical Assistance:

SERS personnel will provide training and technical assistance at in-service meetings and individually with teachers upon request.

6. Staff Development:

Staff development is an ongoing process at all levels in the Comanche Special Services SSA,. The SERS operations manager will attend staff development training sessions communicate with SERS personnel from other school districts and SSAs and become more knowledgeable through other resources as available.

7. Materials may be selected / analyzed by instructional, support, or administrative personnel or a combination thereof based on student needs as documented in the IEPs of student with disability.

8. Purchase of Materials and Equipment (Provision-Annual Inventory):

- a) All supplies and materials will be ordered on proper forms submitted to the Comanche Special Services SSA, Office. The Director of Special Education, or Designee will approve all purchases. Shipment of ordered merchandise will be to the SSA office. Invoices will be mailed to and processed through the SSA office.
- b) Items that are not expected to last more than one year will not be placed on inventory. Assets that are not considered consumable will be posted by the SERS clerk on inventory and added to the retrieval system. All assistive technology devices will be maintained on inventory.
- c) The SERS clerk will conduct an annual inventory by means of a count of all special education equipment and materials.
- d) All capital outlay items acquired by the Comanche Special Services SSA, will be recorded on a capital outlay inventory control record and become a part of the fiscal agent's capital outlay inventory. The control record lists serial number, model

number, purchase order number, vendor, additions or reductions and other important information on that item.

- e) Receiving, cataloguing, labeling, circulating, and inventorying materials shall be the responsibility of the SERS Clerk.

9. Budget::

The percent of funds to be allocated to materials is to be decided yearly by the Management Board.

10. Geographical Area:

The SERS will serve the member schools of Comanche Special Services SSA, located in Brown, Callahan, Comanche, and Eastland Counties.

11. Upon dissolution of Comanche Special Services SSA, by the Management Board, with the approval of the Texas Education Agency, the materials of the SSA shall be distributed as delineated in the current Contract for Shared Services.

12. The LEAs will be housed at the Comanche Special Services SSA, office in De Leon and available for checkout.

13. All personnel in Comanche Special Services SSA, have access to and may check out materials according to procedures used. A computer filing system is the method used.

14. Materials may be checked out by support staff, the Director of Special Education, or Designee, and by instructional personnel.

15. Comanche Special Services SSA, cooperates with the local school districts and the ESC Region XIV in providing resource materials.

16. The Director of Special Education, or Designee shall be responsible for providing training to special education personnel in the selection of appropriate instructional media materials and other resources for student with disability.

*CNA.SE.1 Transportation Support*

The Comanche Special Services SSA, Management Board sets forth this policy to specify the intent of the SSA Management Board in supporting its member districts as they face these situations.

It is the intent of the Comanche Special Services SSA, Management Board to lend assistance to member school districts that need to acquire appropriate vehicles for the transportation of special education eligible students to regional services on a daily basis. The following statements establish the context of this policy.

1. It is the sole responsibility of the member district to provide transportation services to students in this situation. This policy does not change or alter that responsibility.
2. It is the responsibility of the member district and the ARD committee for the student in question to determine if the student needs to be transported to any regional educational program on a daily basis.

When a district determines that it desires to request the support of the Comanche Special Services SSA, with this process, then the following provisions apply:

1. The district needs to make its request known to the Director of Special Education, or Designee.
2. The district understands that there will be an agreement to sign specifying the details of the agreement.
3. The district will be provided funds to procure the necessary vehicle, up to the limit as established by the Management Board at the time of the request.
4. The district will be required to reimburse the SSA for the funds provided according to the specifications below and as contained in the specific agreement signed.
5. If the student in question does not continue to attend the regional program, for whatever reason, the member district is still obligated to reimburse the Comanche Special Services SSA, according to the schedule established in the agreement that was signed.



6. The member district accepts the responsibility for providing transportation to the student including: hiring and providing a driver, providing for maintenance and operation of the vehicle, and any other vehicles necessary to accomplish transportation of the student daily to the regional educational setting. The member district is responsible for all costs associated with the transportation. The member district may file with the Texas Education Agency for route reimbursement consistent with state rules regarding transportation of students with disabilities. Funding from TEA for this route will belong to the member district.
7. The member district is totally responsible for the transportation of the student and any liabilities that arise from that process. This agreement in NO WAY transfers any liability from the member district to the Comanche Special Services SSA,.
8. If a member district which has made use of this funding stream and subsequently determines that it will be leaving the Comanche Special Services SSA,, then the remaining balance is due immediately to the SSA on the date that the member district provides written notice to the SSA of its intent to leave. (This written notice being required in our organizational contract.)

#### *DBA.SE.1 Personnel Records*

Maintenance of special education personnel records for support staff as required by state and local guidelines shall be the responsibility of the Comanche Special Services SSA, Director of Special Education, or Designee. Personnel records of those employed in each member district shall be the responsibility of the respective districts with assistance provided by the Comanche Special Services SSA, Director of Special Education, or Designee.

### *DEE.SE.1 Travel Regulations*

Comanche Special Services, SSA will adhere to the same travel regulations as in State Regulation with the approval of the Management Board.

#### *DEE.SE.1.A Authorization*

Employees shall be reimbursed for travel expenses incurred in the conduct of official Comanche Special Services, SSA business. All reimbursement shall be approved in advance of payment by the Director. All Out –of-Region travel must have prior written approval by the Director.

#### *DEE.SE.1.B Travel*

Reimbursement for official mileage travel in personally owned conveyance shall be reimbursed at the current state rate per mile.. These rates will change as they are approved by the State of Texas, without the need for additional action by the Comanche Special Services, SSA Management Board. Each employee shall have a designated “home school” for travel purposes. The Director shall designate this travel home school for each person. Comanche Special Services, SSA will maintain a list of mileage distances for all travel between SSA schools. The SSA shall develop those mileages using the state required processes and documentation. Employees may then use the provided chart to use in claiming their regular travel between SSA school districts. (The “home school” for each employee shall be school in which the employee provides services for that day. Travel reimbursement will not be allowed for mileage from home to designated “home school”).

#### *DEE.SE.1.C Travel Outside the Region*

Travel outside the member district area will be reimbursed from the SSA or the closest member district to home, whichever is closer. Reimbursement rates are stated in DEE.SE.1.B.

*DEE.SE.1.D Public Transportation*

Travel by public conveyance shall be reimbursable on the basis of actual cost of such transportation. Mode and class of transportation selected shall be the least expensive provided such accommodations are available and conform to work schedules.

*DEE.SE.1.E Airline Tickets*

To be reimbursed at actual cost when authorized in advance by the Director.

*DEE.SE.1.F Taxi and Limousine*

Actual costs incurred for taxi and limousine services used in conducting official SSA business will be reimbursed. Such charges must be itemized on a daily basis. Dates and destinations must be shown. Receipts are required.

*DEE.SE.1.G Rental Cars*

Charges for rental cars will be reimbursed if such use is authorized in advance by the Director.

*DEE.SE.1.H Per Diem Allowance*

### *DEE.SE.1.1 Meals*

Employees who are required to travel out of town are eligible for reimbursement for meals up to the state rate. -These rates will change as they are approved by the State of Texas, without the need for additional action by the Comanche Special Services, SSA Management Board. Meal reimbursement will be paid as per diem. .

When travel is being planned, the Director will determine if the travel will be paid from state or federal funds.

When travel is being funded with state funds, one of the following two procedures will be followed. The choice of the two procedures belongs to the employee who is traveling.

#### Procedure 1: Per Diem

The employee may request and be paid a straight per diem amount as adopted by the SSA Management Board. Under this procedure the amount will be the amount of per diem that would be allowed under the state rate. The employee is required to submit receipts to receive this reimbursement. The employee will be required to submit a form attesting that they spent the amount provided on meals for the trip.

#### Procedure 2: State Rate Reimbursement

The employee may request and be paid reimbursement up to the maximum allowed for the travel in question according to the state travel guidance documents. The employee must provide receipts to be reimbursed under this procedure.

When travel is being funded with federal funds, then additional requirements exist. All travel paid with federal funds will comply with all restrictions and regulations that are in place for federal funds at the time and in compliance with any grant regulations for the federal funds.

Federal funds require that 1) per diem is a maximum allowable rate of reimbursement for meal costs, and 2) that all meal costs to be reimbursed be supported with receipts. Therefore, any travel that is paid with federal funds will require the submission of

receipts in order to claim per diem meal reimbursement. The SSA will only reimburse the actual amount spent on meals each day, up to the allowed per diem as defined by state and federal rules for the specific trip in question.

#### *DEE.SE.1.J Meals As a Part of Registration Fees for Conferences, etc.*

If the meal part of the registration fee is optional, reimbursement for the meal will be made in accordance with the per day allowance. In those cases where meals are a part of the mandatory registration fee and a separate cost is not identified, the total costs of registration will be paid or reimbursed as a registration item and not meals and lodging.

#### *DEE.SE.1.K Lodging*

The employee shall be reimbursed for the actual cost of lodging not to exceed the state rate with valid receipts to verify lodging at the rate of single occupancy. In the case of double occupancy, the total cost cannot exceed twice the single rate as adopted.

In the instance that a meeting is being hosted in a hotel, SSA staff may stay in the hotel hosting the meeting with the approval of the SSA director, even if the cost of the hotel exceeds the maximum rate shown above.

Employees are reminded that SSA employees are exempt from the payment of State sales tax if an exemption form is presented. The tax exempt number must be secured from the Administrative Office. If the exemption number is not secured the employee shall be responsible for paying for tax without reimbursement. City tax will be reimbursed.

#### *DEE.SE.1.L Cell Phone Expense Reimbursement*

None

### *DEE.SE.1.M Reimbursement Procedures*

#### *DEE.SE.1.N Travel Voucher*

Reimbursement for authorized travel expenses will be made monthly upon the receipt of a completed travel voucher. All information requested on the form must be complete before payment is made.

All travel vouchers are submitted to the Director for approval. Final approval for all travel reimbursement claims must be made by the Director.

### *DEE.SE.2 Non-Staff And Special Travel*

#### *DEE.SE.2.A Contracted Consultants and other Non-Staff Travel*

All claims for travel reimbursement by consultants contracted by the Shared Service Arrangement shall conform to all of the policies for Shared Service Arrangement personnel. All claims for travel paid by the SSA for parents, staff from member schools, and any other travel the SSA deems appropriate to reimburse shall follow the rules and procedures as outlined by the policies contained in DEE.SE.1

### *DN.SE.1 Personnel Appraisal*

Personnel employed by a single district shall be appraised by that district. Appraisal of the support/itinerant personnel/speech therapists shall be the responsibility of the Director of Special Education as directed by the management board. All procedures/timelines utilized by the fiscal agent, De Leon ISD, will be followed.

For professional personnel:

- a) Speech therapy personnel will be evaluated utilizing the same evaluation procedures used by the fiscal agent to evaluate its instructional personnel.
- b) All teachers employed by the SSA will be evaluated using the required teacher evaluation system as designated by TEA.
- c) For all other professional personnel employed by SSA, there shall be one evaluation conducted by the director of Comanche Special Services, SSA using the evaluation instrument adopted by the management board.
- d) There shall be one evaluation of the director conducted by those members of the management board present at the January meeting using the evaluation instrument adopted by the management board.

#### *DP.SE.1 Director's Administrative Duties*

1. The Director of Special Education will assure that Shared Service Arrangement personnel are appropriately certified, licensed, etc. Each member district is responsible for employment of district personnel.
2. The Director of Special Education/Designee will assist principals with training/staff development activities for personnel upon request.
3. The Special Education Director is responsible for assuring that Shared Service Arrangement personnel have appropriate staff development opportunities.
4. Yearly, the Director of Special Education or Designee will acquire information from PEIMS and other data for analysis of special education students' educational achievement.
5. Yearly, the Director of Special Education or Designee will schedule time for the staff to monitor students' folders for required compliance data. The eligibility folder for monitoring must include:
  - a) Copies of referral data
  - b) Documentation of notices and consents
  - c) Assessment reports and supporting data
  - d) Admission, review, and dismissal committee deliberation
  - e) Individual educational plan (IEP), etc.

f) Visually Impaired Resources

6. Yearly, the Director of Special Education or Designee will inform the staff serving visually impaired students of the availability of state/federal resources.
7. Contribute to the development of the total school philosophy of education.
8. Assist in the adaptation of District policies to include special education needs.
9. Recommend policies and programs essential to the needs of exceptional children.
10. Keep informed of all legal requirements governing special education.
11. Provide leadership in establishing new programs and developing improved understanding of existing programs.
12. Develop and initiate survey programs for continuous identification of exceptional students.
13. Supervise and coordinate special education classroom programs for any student who meets federal or state guidelines as handicapped.
14. Evaluate existing programs as an ongoing responsibility, and recommend changes and additions as needed.
15. Establish procedures for placement, evaluation, assignment, and reappraisal of student's in the special education services program.
16. Develop procedures for referral, securing medical reports, psychological examination, and placement.
17. Supervise and coordinate home instruction for homebound or hospitalized students.
18. Evaluate and recommend for employment or promotion any personnel serving in the special education area.
19. Assist in recruitment, selection, and recommendation for hiring of any special education personnel.
20. Assume responsibility for compiling, maintaining, and filing all reports, records and other documents legally required or administratively useful.
21. Develop and maintain complete and cumulative individual records of all students receiving special services or enrolled in special classes.



22. Supervise preparation of attendance reports and similar data necessary for reimbursement of funds, collecting of tuition for out-of-district students, and similar fiscal matters.
23. Arrange for transportation of students and others involved as deemed necessary for education, recreation, and health purposes.
24. Develop budget recommendations and provide expenditure control on established budgets for special education.
25. Keep informed of the state of financial aid for special education.
26. Interpret the objectives and programs of the special education services to the board, administration, staff, and public at large.
27. Maintain a permanent inventory of equipment purchased for special education.
28. Establish procedures for requisitioning, ordering, and paying for special education equipment and supplies.
29. Approve all supplies, materials, and texts used by special education personnel.
30. Evaluate on an ongoing basis the total special education program, curriculum, procedures, and individual student's needs and achievements.
31. Make recommendations on design, furnishings, equipment, and location of new special education facilities.
32. Provide programs of a remedial nature to supplement regular classroom instruction for those students with learning or visual disabilities.
33. Consult with parents of students enrolled in the program.
34. Assume responsibility for own professional growth and development, for keeping current with the literature, new research findings, and improved techniques, and for attending appropriate professional meetings and conventions.
35. Yearly, the Director of Special Education or Designee will review with the special education staff:
  - a) The composition of the multidisciplinary evaluation team to be used when evaluating a student suspected of having a specific learning disability.

- b) The criteria for determining the existence of a specific learning disability.
- c) Responsibilities of the campus multidisciplinary evaluation team.
- d) Written report requirements
- e) The Director of Special Education or Designee will review and update a list of persons available for assisting in the evaluation of students in their native language.
- f) Determine that validated tests are being used for individuals whose native language is other than English.
- g) Schedule any needed training for updating the skill level of staff.
- h) Review the availability of tests and other evaluation materials available to assess specific areas of educational need as well as just the general intelligence quotient.
- i) Review the availability of tests and other evaluation materials available to assess students with impaired sensory, manual, or verbal skills. Tests should accurately assess an individual's aptitude or achievement level, etc.
- j) Review the composition and the function of the multidisciplinary team for needed training in specific areas of disabilities.
- k) Review assessment procedures to determine if all areas related to the suspected disability are addressed including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities.
- l) Review to ascertain that all visually impaired students have a functional vision evaluation and a learning media assessment that is current.
- m) The Director of Special Education or Designee will review the required time lines with assessment staff and principals or individuals representing administration.

- n) The Director of Special Education, or Designee, will review with assessment staff the requirements/timelines involved in the reevaluation process.
  - o) The Director of Special Education or Designee will review a designated number of student folders for a compliance review.
36. Yearly, the Director of Special Education or Designee will review the local Child Centered Appraisal Process with support staff, principals, and others to determine that:
- a) The process in place insures that a student with a disability receives a full and individual evaluation of their education needs prior to initial placement.
  - b) Parental consent is acquired before initiation of the formal evaluation process and before the initiation of special education services.
  - c) Parents/legal guardians understand all assessment procedures and their rights in acquiring mediation or legal action.
37. Yearly, the Director of Special Education or Designee will evaluate and update local school and SSA policies/procedures/operating guidelines for compliance with federal/state law.
38. Perform other such duties as may be assigned.

### ***EHBA.SE.1 Goal Of Special Education / Philosophy***

Comanche Special Services SSA, is dedicated to the premise that all children can learn.

Students with disabilities who meet the eligibility criteria for Special Education services have the right to a free appropriate public education, which includes a full continuum of services to be provided in the regular education setting, the special education setting, or through approved contracts. The SSA shall be responsible for providing educational and related services to eligible students in the least restrictive environment. Students with disabilities who meet the eligibility criteria for Special Education services shall have the

opportunity to participate in educational programs and activities with their non-handicapped peers. To be eligible for special education services a student must have been determined to have one or more of the handicapping conditions listed in federal regulations or in state law.

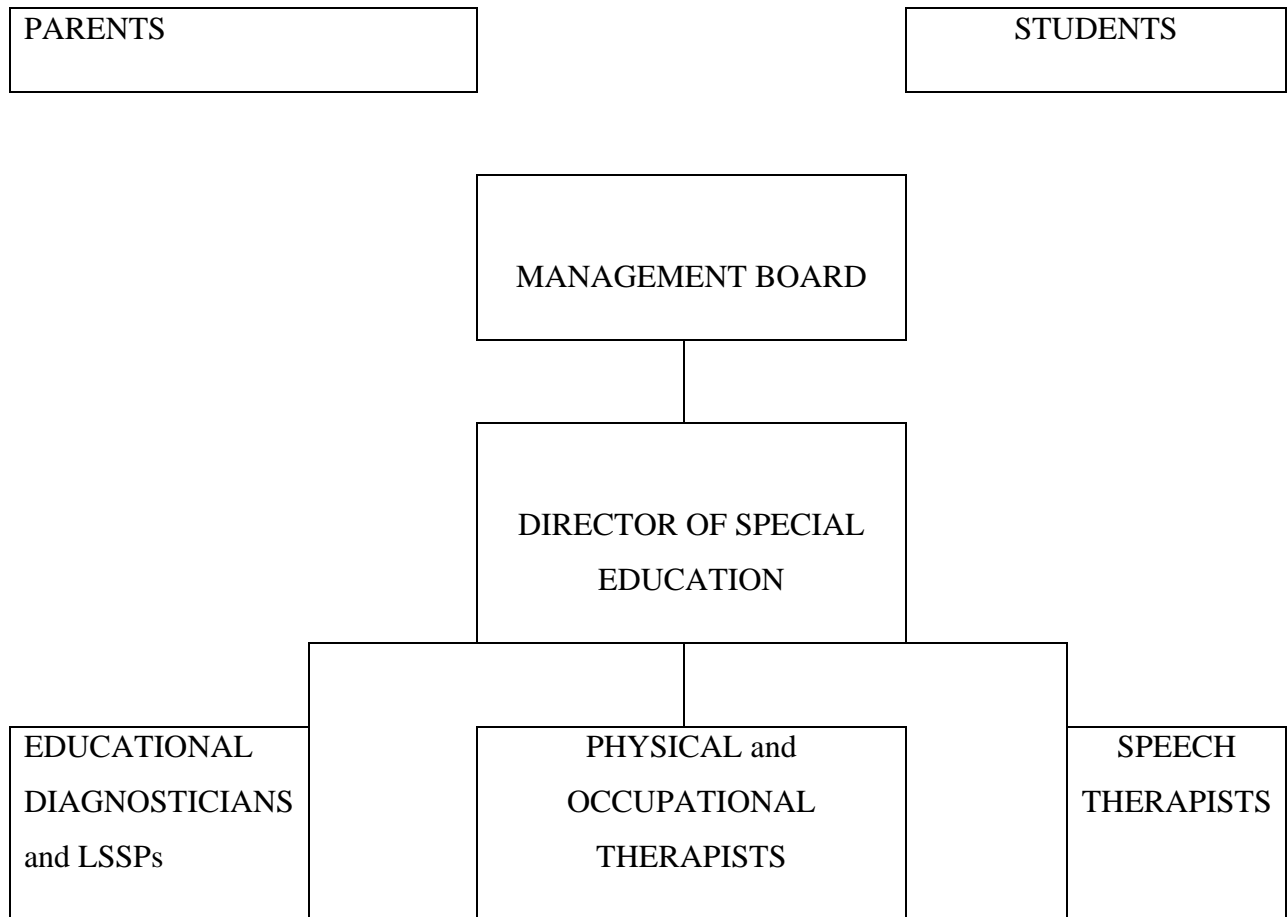
### ***EHBA.SE.2 Policies Not Addressed Or In Conflict***

Policies not addressed in the Operating Guidelines shall be addressed:

1. In and as a part of each member school's local Board Policy Manual as provided by the Texas Association of School Boards;
2. Commissioners / State Board of Education Rules for Special Education Services;
3. Texas School Law; and
4. Comanche Special Services SSA, Policies and Administrative Procedures as Required by Individuals with Disabilities Education Act (IDEA) 34 Code of Federal Regulations - Part 300.
5. The Legal Framework, as posted by TEA and ESC 18 on the service center's web site. (Since the legal framework, and related special education law changes regularly, the SSA maintains as policy that it will implement procedures to follow the law as it emerges, even if that is in conflict with operating guidelines.)
6. The Comanche Special Services SSA, Educational SSA will follow law using the following hierarchy of legal rules:
  - a) State Law
  - b) Federal Law
  - c) State Rules
  - d) Legal Framework as promulgated by TEA
  - e) District Policies and Procedures
  - f) Comanche Special Services SSA, Educational SSA Policies and Procedures
7. With regard to issues of SSA operational Guidelines affecting SSA Operations, SSA Guidelines will be primary over individual district guidelines.

COMANCHE SPECIAL SERVICES SSA,

*EHBA.SE.2.Ex1 Administrative Organizations Flow Chart*



### ***EHBA.SE.3 Parent Involvement***

1. The Director of Special Education, or Designee of Special Education and/or the Principals and Diagnosticians will collaborate to determine ways to increase parent participation in all aspects of their children's educational program.
2. Efforts are made to gain parent participation in Admission, Review, and Dismissal (ARD) meetings.
3. Parents are entitled to determine their individual need for translation services. State and Federal law and district policy require that a parent be provided a written or taped copy of the IEP document in their native language, if the parent does not understand English. Therefore, the district will allow the parent to inform the district of their need for these services. While the student's home language survey is an indicator of potential need for this service, the district will inquire as to the parent's desire/need for this service. Parents will be allowed to indicate that they do not wish to receive a written or taped copy of the IEP document in their native language.

### ***EHBA.SE.4 Program Compliance Issues***

1. Each SSA member will provide adequate facilities for the operation of a comprehensive special education program in the same manner that facilities are provided for other educational programs in the school district.
2. All participating schools in the Comanche Special Services SSA, Education Shared Service Arrangement will operate a comprehensive special education program in compliance with state and federal law.
3. Each district shall insure that a continuum of alternative placements/services is available to meet the needs of students with disabilities for special education and related services.

4. The continuum includes the alternative placements in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions; and provides for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.
5. Each member district within the Shared Service Arrangement shall be responsible for employment and dismissal of personnel who serve only that school district; the fiscal agent shall be responsible for employment and dismissal of all Shared Service Arrangement personnel. All grievances concerning employment or contract conditions shall be the responsibility of the employing Board. SSA personnel shall be governed by the general policies of the fiscal agent unless otherwise approved by the Board. All personnel shall be subject to federal policies/procedures, Texas Association of School Boards policies, and Operating Guidelines.

### *EHBAA.SE.1 Identification*

#### *EHBAA.SE.1.A Child Identification (Child Find)*

All children ages 0-21 residing within the jurisdiction of our Independent School District(s) who have disabilities, regardless of severity of their disability, and who are in need of special education and related services, will be identified, located, evaluated and ensured an appropriate education.

Identification:

Our Special Education program in conjunction with Region 14 ESC and Early Childhood Intervention (ECI) programs shall maintain a system for identifying, locating, and evaluating individuals residing within its jurisdiction who are in need of special educational services ages 0-21 including highly mobile children with disabilities (such as migrant and homeless children), school-age individuals with disabilities attending private schools, including religious school children, school-age individuals with disabilities residing in nursing facilities, Texas Department of

Mental Health and Intellectually disabled(TXMHMR) group homes, Texas Youth Commission (TYC) group homes, detention facilities, or other residential care and treatment facilities within the district boundaries. . The system includes the areas of:

1. Public Awareness
2. Referral
3. Evaluation
4. Interagency Coordination Services -Designated staff will develop/update Child Find materials for awareness, distribution to various locations within the community, service organizations, parents, local residential facilities, private schools within our jurisdiction, school personnel and others. This information will describe:
  - a) Characteristics of students with an educational disability as defined by Federal and State Law
  - b) Referral process for students with special needs
  - c) Contact person(s)
5. Information regarding availability of services.-Information will be made available in English and Spanish or in other language(s) as needed.
6. Information of services provided by ECI agencies and other community services will be made available to parents upon request or identified need.
7. Information of services provided by the Texas School for the Deaf or Texas School for the Blind and Visually Impaired will be made available to parents of auditorially impaired or visually impaired students at each appropriate ARD meeting (at least annually).



Timelines: On or before September of each school year, all information for distribution will be reviewed and/or updated reflecting current Federal and State Requirements.

Outcomes: Copies of all information germane to child find responsibilities that are disseminated by the ESC 14 during the past and present school year and a list of various distribution sites will be on file in the ESC 14 Director of Special Education, or Designee's office.

For Referral of Students Ages 0-21:

Referral of students for possible special education services shall be a part of the district's overall regular education referral or screening system.

The referral process may be initiated by the child's parent(s) or legal guardian, the student (If the student has reached the age of majority), a staff member, school personnel, ESC personnel, ECI personnel, or other individuals who believe a child is having any kind of educational problem. If a school-age adult (18-21 years of age) requests services at a campus, the principal will initiate the referral process and will contact the special education department.

A student who transfers into a district, who reports that he/she has been in special education services will cause the following actions on the part of the district to take place: **1)** a telephone call will be made to the previous district to attempt to confirm this information, **2)** A temporary ARD meeting will be held, **3)** records will be requested, **4)** evaluation will be reviewed, **5)** additional testing will be done as necessary, and **6)** a second ARD will be held within the appropriate time frame.

The district may choose to follow regulations which allow for the school to review an IEP which is presented by the parent/student and accept in full with an ARD meeting. Before exercising this second option, the district will have the principal, special education teacher, and the diagnostician review the IEP.

All referrals will be submitted to the principal on each school campus. The principal will involve the diagnostician, speech therapist / and or LSSP at the child's home school. Assessment personnel will be responsible for completing the "Child Find"

form, which will be collected by the Director of Special Education, or Designee at the end of the school year. The principal will refer parents of children who may be eligible for services to the appropriate service agencies.

The district is responsible for ensuring compliance with the Memorandum of Understanding Concerning Interagency Coordination of Special Education Services to Students with Disabilities in Residential Facilities. The district will coordinate with residential facilities to ensure that the following are implemented appropriately: 1) responsibilities and programs, procedures and policies for implementation, and 2) procedures for resolving disputes side by side with 89.155 Commissioners Rules.

### ***EHBAA.SE.1.B Referral Information***

#### ***EHBAA.SE.1.B.1 Referral Information to Be Collected***

Referral Information To Be Submitted in Writing Will Include:

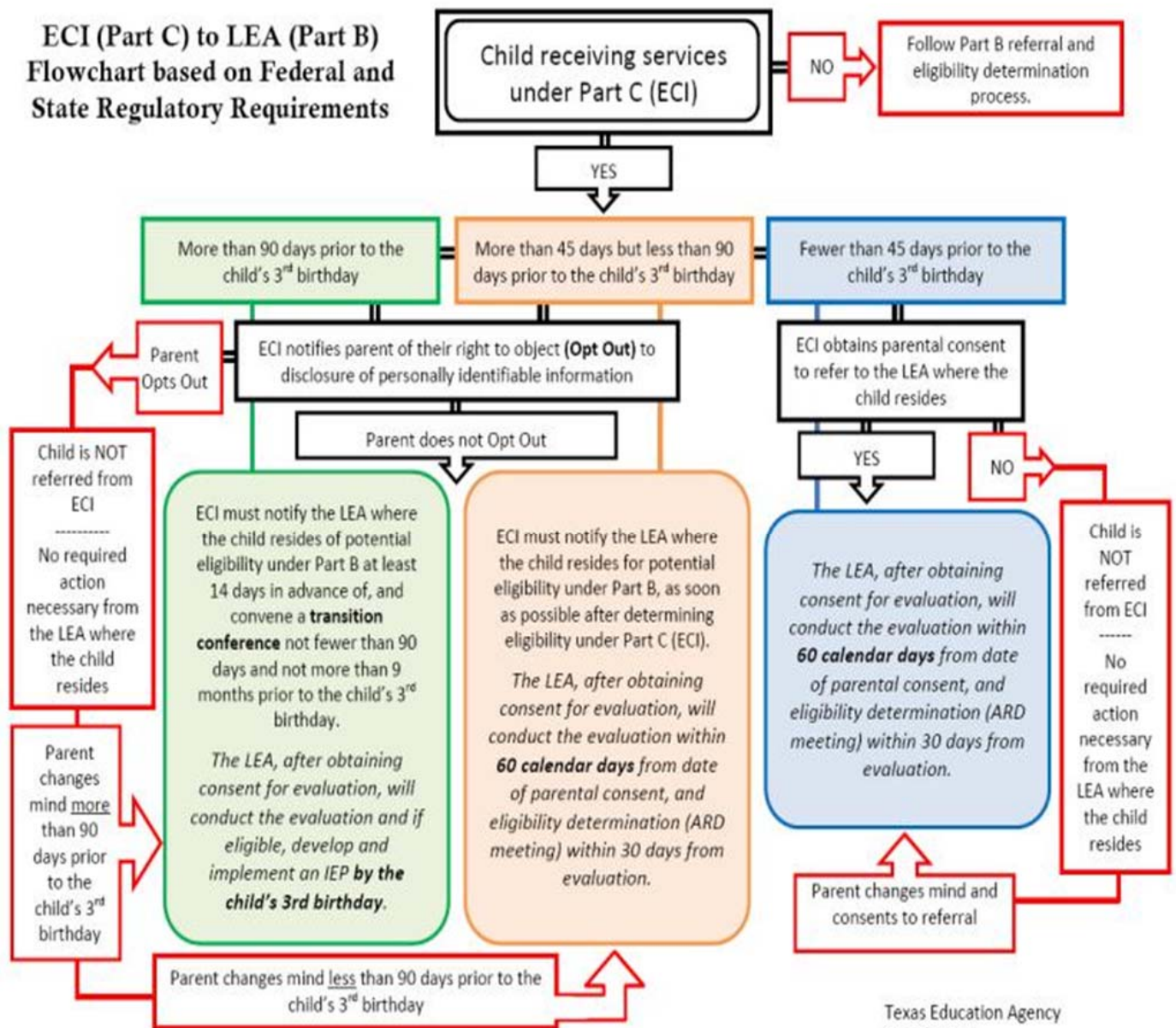
1. the student's current educational status, including attendance records, grades and achievement data, student's use of the English language, and classroom observation;
2. results of the home language survey;
3. the recommendations of the language proficiency assessment committee shall be included in the data for all limited English proficient students;
4. documentation of previous educational efforts and strategies provided or considered for the student and the results of those efforts, including participation in or consideration for other special and compensatory education programs operated by the district;
5. documentation of recent vision and hearing screening, including available reports from evaluations done by vision or hearing specialists before you do the referral;
6. Information reported or provided by parents.

#### ***EHBAA.SE.1.C ECI***

If a parent/guardian of a child between the ages of 0-3 requests services at a campus, the principal will initiate the referral process, or will refer the parent/guardian to the Special

Education Office. The Director of Special Education, or Designee, is responsible for ensuring that the child is added to their tracking system list and referring the child to ECI as soon as possible, but in no case more than seven days. The Director, or Designee, will maintain communications with ECI personnel to assure that assessment and services, if appropriate, are provided.

### ECI (Part C) to LEA (Part B) Flowchart based on Federal and State Regulatory Requirements



Texas Education Agency  
March 2013

*EHBAA.SE.1.C.1 ECI Coordination on Child Find Referrals*

If a parent/guardian of a child between the ages of 0-3 requests services at a campus, the principal will initiate the referral process, or will refer the parent/guardian to the Special Education Office. The Director of Special Education, or Designee of Special Education, or Designee, is responsible for ensuring that the child is added to their tracking system list and referring the child to ECI within a timely manner. The Director of Special Education, or Designee, or Designee, will coordinate with ECI to assure that any/all services which the district is required to provide for the student are provided.

The Director of Special Education, or Designee, or Designee, will coordinate with ECI to assure that any/all services which the district is required to provide for the student are provided.

If a child is referred to either the district or to the ECI program close to his/her third birthday, the district and ECI will coordinate and follow these procedures: 1) The agency which takes the referral will inform the other agency within a timely manner, 2) The agencies will determine how many days remain until the child’s third birthday, 3) The child will be evaluated by the agency based on the chart following, 4) The district and ECI will coordinate and hold IFSP or IEP meetings as appropriate for the child’s age at the time of meeting.

| Days till the child’s 3 <sup>rd</sup> birthday  | Agency           | Action  |
|---|------------------|---|
| More than 90                                    | ECI              | Conduct evaluation, convene IFSP meeting, and provide services as necessary 1 |
| More than 45 days less than or equal to 90 days | ECI and District | Conduct evaluation, convene IFSP meeting, and provide services as necessary 1 |
| 45 days or less                                 | ECI and          | Conduct evaluation, convene IEP/IFSP meeting, and provide                     |

|  |          |                            |
|--|----------|----------------------------|
|  | District | services as necessary 1, 2 |
|--|----------|----------------------------|

1. Some children receive services from the school district from birth. These procedures would not apply to those children.
2. Services to the child would begin on or after the child's 3<sup>rd</sup> birthday as determined appropriate by the IEP/IFSP meeting.

Early Childhood Intervention program staff will work closely with the Director of Special Education, or Designee of Special Education, or Designee of Special Education, or Designee, in the notification/referral of children becoming 3 years of age and to be referred for educational service in the school's Preschool Program for Children with Disabilities.

All phone calls, parent contacts, or agency referrals regarding children with possible disabilities shall be documented in the Child Find/Referral Tracking System. Copies of referrals will be maintained in student folders.

Special education personnel may be involved directly in collecting referral data only for the following students:

1. children ages zero thru three
2. pre-kindergarten students;
3. multiply handicapped (severely and profoundly handicapped);
4. eligible students with disability new to the district;
5. students referred to special education during the summer; and
6. students who are hospitalized, institutionalized, or admitted to treatment centers.

### ***EHBAA.SE.1.C.2 ECI COORDINATION***

#### **COORDINATION OF SERVICES WITH EARLY CHILDHOOD INTERVENTION (ECI) SERVICE PROVIDERS**

The SSA:

1. Ensures that all LEAs, ESCs, TSD, and RDSPD immediately upon receipt of a referral for children less than three years of age, transfer referral information to the <District or SSA Name> SSA. The director will transfer the information to the appropriate agency in order to meet the IFSP timelines;
2. Ensures that the level of state and federal funding and resources used to provide services for children, birth through two years of age, with visual impairments or auditory impairments will be maintained or increased unless changed by federal or state statutes and regulations;
3. Under the MOU and in accordance with federal law, services are to be provided according to regulations under IDEA Part C, **NOT** under IDEA Part B. ECI monitors its programs for compliance with the Part C regulations. TEA monitors districts for coordination with ECI, the specific services outlined in the MOU, and for compliance with the state laws specific to students with visual and/or auditory impairments.
4. Ensures that the LEA will provide for all children, birth through two years of age, referred with an identified or suspected visual impairment as a result of the screening process;
  - a. a functional vision evaluation and learning media assessment required to determine if *a child has a need for services related to visual impairment,*
  - b. an orientation and mobility evaluation,

- c. a teacher with a Visually Handicapped Endorsement to consult with the ECI assessment team in planning all aspects of the child's assessment,
  - d. a teacher with a Visually Handicapped Endorsement to participate as a member of the interdisciplinary team to determine eligibility and to develop the IFSP, and
  - e. The capacity to provide services as defined in ECI standards and Regional MOU , and
5. Ensures that the LEA will provide for children with an identified visual impairment birth through two years of age;
- a. a teacher with a Visually Handicapped Endorsement to participate as member of the interdisciplinary team at each IFSP meeting,
  - b. services and materials by a teacher with a Visually Handicapped Endorsement and an orientation and mobility specialist, as specified by the IFSP,
  - c. materials that are available through Quota Funds as specified by the IFSP, and
  - d. Registration of each child on the Annual Registration of Students with Visual Impairments.
6. Ensures that the LEA will provide for all children, birth through two years of age, referred with an identified or suspected auditory impairment as a result of the screening process;
- a. assessments required to determine the need for services or adaptive equipment related to the auditory impairment,
  - b. a teacher with a Hearing Impaired Certificate to consult with the ECI assessment team,
  - c. a teacher with a Hearing Impaired Certificate to participate as a member of the interdisciplinary team to determine eligibility, to develop the IFSP, and to serve as service coordinator when designated by the IFSP,
  - d. capacity to provide services as defined in ECI standards and Regional MOU , and
  - e. necessary instructional support to ensure that children with auditory impairments have access to ASL, information about deaf culture and all educational options, including TSD, as appropriate.
7. Ensures that the LEA, TSD and RDSPD will provide for children with identified auditory impairments birth through two years of age;
- a. services by a teacher with a Hearing Impaired Certificate as specified by the IFSP,

- b. a teacher with a Hearing Impaired Certificate to participate as a member of the interdisciplinary team at each IFSP meeting, and
  - c. Coordinated service delivery with the local ECI program.
8. Ensures that each LEA and RDSPD will adopt and meet all part H requirements, including, but not limited to: a family-focused process, flexible hours, full-year services, timelines, and procedural safeguards.
  9. Ensures that each LEA will enroll all children, birth through two years of age, with a visual and/or auditory impairment who need specialized services and include them in PEIMS; and
  10. Recognizes that the Individualized Family Service Plan and IFSP team meeting will replace the Individualized Education Plan (IEP) and the Admission, Review and Dismissal (ARD) committee meeting, for children, birth through two, with visual and auditory impairments.

#### ***EHBAA.SE.1.C.3 Identification and Tracking System (Age 0-3)***

Persons wishing to refer a child 0-3 who is suspected of having a developmental delay are referred to the local Early Childhood Intervention (ECI) program within a timely manner. Children 0-3 with auditory and or/or visual impairments will be enrolled with both ECI and the SSA. The SSA staff tracks referrals on children 0-3 suspected of having a developmental delay or disability by recording the name and demographic information in the Child Find records.

#### ***EHBAA.SE.1.C.4 Referrals from ECI***

The ECI program Coordinator provides the Special Education Director with referrals for children in ECI. These referrals are made after the parent has given permission for ECI to release information to the SSA. ECI invites the special education director or designee to a face-to-face meeting approximately 120 days before the child's third birthday.

School districts should accept referrals at least 90 days before the child's third birthday. In order to ensure continuity of services, the SSA should accept appropriate assessments from infant programs, and if the information is sufficient develop the IEP through the ARD process in order to begin serving the student by his or her third birthday. If additional assessment is needed to determine eligibility, the SSA should conduct necessary assessments and convene an ARD committee meeting on or before the child's third birthday.



### ***EHBAA.SE.1.C.5 Determination of Children Receiving Needed Services (Ages 0-21)***

The following methods (See SE.1.C.6) are used to ensure that all eligible students of Comanche Special Services SSA, between the ages of 0 and 21 are receiving needed special education and related services.

### ***EHBAA.SE.1.C.6 Determination of Children Receiving Needed Services (Ages 0-3)***

As children 0-3 are identified by the special education SSA, they are referred to ECI for services and tracking. Upon reaching their third birthday, ECI refers these children to the SSA and services for eligible students are provided locally. Children 0-3 with visual or auditory impairments are dually enrolled and served by the SSA and ECI and are entered in the SSA database. These children are not reported on the Child Find count submitted by the SSA.

### ***EHBAA.SE.1.C.7 Timeline(0-3)***

Students receiving services from ECI need to be evaluated and placed by the child's third birthday. CSSSSA may also receive referrals from ECI on students that have not been served. These evaluations will follow regular timelines. Students with sensory impairments that are referred to CSSSSA must be evaluated and initial IFSP held within 45 days from the date the referral is received

Children referred for services after their third birthday will be subject to regular referral process and timelines.

### ***EHBAA.SE.1.C.8 Three-Is-Three (Please see ECI Transition Chart under EHBAA.SE.1.C.1-ECI Coordination on Child Find Referrals)***

Preschool children eligible for services under IDEA-C (ECI) receive the necessary services as determined by the ARD/IEP committee beginning on their third birthday. This policy applies to students who are referred from ECI to the school district before their third birthday. Preschool

students who are **not** receiving services under IDEA-C are subject to the IDEA Part B referral and eligibility determination process.

### ***EHBAA.SE.1.C.9 Location***

The SSA works closely with ECI program staff to ensure a satisfactory transition between that program and the public school. The ECI program staff notifies the SSA of students prior to their third birthday in accordance to Comanche Special Services / ECI MOU. This notification will allow SSA and district staff to meet with parents and begin the transition process.

### ***EHBAA.SE.1.D Child Find Tracking System***

The status of an initial referral or a reevaluation will be monitored by a child find tracking system, which includes the following information, if applicable:

- |  |   |
|--|---|
| 1. Name of school                                    | 2. Test date                                    |
| 3. School year                                       | 4. FIE date                                     |
| 5. Name of assessment personnel                      | 6. ARD date / IFSP date                         |
| 7. Student name                                      | 8. Qualified – yes, no / handicapping condition |
| 9. Grade   | 10. Last assessment date                        |
| 11. Initial referral date                            | 12. Reevaluation packet date                    |
| 13. ECI referral dates will be tracked for timelines |   |

When considering a referral from the district, the term “district” also includes a public charter school. Child Find requirements apply to highly mobile children with disabilities (such as migrant and homeless children); and children who are suspected of being a child with a disability and in need of special education, even though they are advancing from grade to grade.

The staff will receive staff development on all aspects of the referral process.

Outcomes:

1. The Child Find/Referral Tracking System will document the information required by State/Federal Guide-lines.
2. Individual student folders will have current up to date records as required by the Federal and State Law.

All students referred will be assessed within federal timeframes.

#### *EHBAA.SE.1.E Staff Responsibilities Referral*

1. For the initial referral, the referring teacher will complete the assistive technology information portion of the referral.
2. For students already receiving special education services, a request for an assistive technology evaluation may be recommended through the ARD process.

#### *EHBAA.SE.1.F Surrogate Parent*

##### *EHBAA.SE.1.F.1 Surrogate Parent General*

Reasonable efforts shall be made to involve student's parent or guardian regarding the provision of special education services. When a student's parent cannot be identified or located after reasonable efforts, or the student is a legal ward of the state, a surrogate parent will be appointed.

A surrogate parent may be selected in any way permitted under state law. To ensure maximum objectivity and prevent possible conflict of interest, a person appointed as surrogate parent shall not be an employee of the state or public agency responsible for or involved in the education or care of the student whom that person represents. A person who otherwise qualifies to be a surrogate parent is not an employee of the agency solely because he or she is paid by the agency to serve as surrogate parent. The CSSSSA office shall maintain documentation that the person appointed is competent to represent the individual, shall have knowledge and skills that ensure adequate representation of the child, and that he/she has no vested interest that would conflict with the interest of the student he or she represents. In accordance with the criteria in federal

regulations, the local education agency shall determine when surrogate parents are to be assigned and provide for their assignment.

Responsibilities of the Surrogate Parent are:

- agree to complete a training program or provide documentation of training completion
- visit the child and the child's school;
- consult with persons involved in the child's education, including teachers, caseworkers, court-appointed volunteers, guardians ad Litem, attorneys ad Litem, foster parents, and caretakers;
- review the child educational records
- attend meetings of the child's admission, review, and dismissal committee;
- exercise independent judgment in pursuing the child's interests, and
- Exercise the child's due process rights under applicable state and federal law. TEC §29.001(10)

The following information about each prospective surrogate parent should be obtained and considered before a prospective surrogate parent is selected as a surrogate parent:

1. Name of employer and relationship, if any, to public agency. (Non employee status should be verified.) Public office held, if any.
2. Educational and cultural background. (Cultural matching of surrogate parent and students is considered desirable.)
3. Basic knowledge of state and federal laws and regulations pertaining to special education a school services, willingness to become knowledgeable, or agreement to participate in surrogate parent training.
4. Willingness to assume the responsibilities of a surrogate including: (1) knowing the child, (2) becoming familiar with child's educational records, (3) contacting teachers, counselors, foster parents, and (4) willingness to make the commitment of time needed for service as surrogate parent.

#### ***EHBAA.SE.1.F.2 Training***

Surrogate parents will be provided training on a variety of topics including:

1. The identification of a student with a disability
2. The collection of evaluation and re-evaluation data relating to a student with a disability
3. The admission, review, and dismissal committee process
4. The development of an individualized education program and for a student who is at least 16 years of age, an individual transition plan
5. The determination of the least restrictive environment
6. The implementation of the IEP
7. The procedural rights and safeguards available under 34 CFR §§300.403, 300.500-300.529, 300.560-300.577, and 300.660-300.662, relating to the issues described in 34 CFR §300.504(b)
8. The sources that the surrogate parent may contact to obtain assistance in understanding the provision of federal and state laws, rules and regulations relating to students with disabilities. 19 TAC §89.1047 (a)(1)

In the event that a surrogate parents is appointed, training will be completed within the following time guidelines.

The individual assigned to act as a surrogate parent must complete the training program within 90 calendar days or 90 calendar days after the date of the initial assignment as surrogate parent.

The training program must be provided in the native language or other mode of communication used by the individual who is to serve as the surrogate parent. 19 TAC §89.1047(a)(2); TEC §29.015

#### ***EHBAA.SE.1.F.3 Staff responsibilities:***

1. The Director of Special Education or Designee will provide surrogate parent training for qualified individuals.
2. Comanche Special Services SSA personnel will consult with Director of Special Education or Designee, the need for and appoint a surrogate parent.
3. The special education personnel will ensure that the appointed surrogate parent is involved in all matters relating to the identification, evaluation, educational placement, and provision of a free appropriate public education. These include prior notice, consent and due process.

4. The Director of Special Education or Designee will assess informally whether surrogate parents have been assigned consistently and properly; if necessary, guidelines will be revised.

#### ***EHBAA.SE.1.G Public Awareness***

Comanche Special Services SSA has combined its public awareness efforts with Region XIV Education Service Center in order to inform the public annually of educational opportunities available to the handicapped in accordance with plans developed by the Texas Education Agency.

#### ***EHBAA.SE.2 Assessments***

##### ***EHBAA.SE.2.A Assessments Tools***

Evaluation will be tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient. Tests and other evaluation materials used to evaluate the child must be validated for the specific purpose for which they are used.

Instruments will be used as intended and be administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the tests.

A variety of assessment tools and strategies are used to gather relevant functional and developmental information about the child, including information provided by the parent and information related to enabling the child to be involved in and progress in the general curriculum or for a preschool child, to participate in appropriate activities that may assist in determining whether the child is a child with a disability and the content of the child's IEP.

The evaluation personnel and the ARD committee will ensure that no single procedure is used as the sole criterion for determining whether a child has a disability and for determining an appropriate educational program for the child.

### *EHBAA.SE.2.B Suggested Test Batteries*

Each individual child must be evaluated based on his/her individual profile and needs. It is not possible to have a one size fits all set of test batteries. The diagnostician/LSSP determines the appropriate instruments to use for necessary testing to complete the Full and Individualized Evaluation.

The most current version of mainstream standardized intelligence tests with co-normed achievement batteries will be used. Achievement testing will include evaluations in the areas of oral expression, listening comprehension, basic reading, **reading fluency**, reading comprehension, math calculation, math reasoning and written expression. Additional subtests may be given at the diagnostician's discretion.

If intellectually disabled is suspected, an adaptive behavior scale is required.

### *EHBAA.SE.2.C When Is Additional Testing Warranted?*

- A psychological evaluation is warranted when information suggests emotional and/or behavioral problems which adversely affect educational performance. Such information, including other evaluation data or testing will be reviewed by <District or SSA Name> staff for indicators of emotional disturbance. Specific parental consent is required in order for a psychological evaluation to be conducted.
- Evaluations for ADD/ADHD are warranted when obtained information suggests the need OR at the evaluation personnel's discretion.
- Medical evaluations are necessary for a variety of conditions including visual impairment, hearing impairment, orthopedic impairment, etc. when a need is indicated through the referral process. Intelligence and achievement testing by the evaluation personnel may or may not be necessary in these instances and are at the evaluation personnel's discretion.

### *EHBAA.SE.2.D Reevaluations*

- A REED is necessary prior to any reevaluation.
  1. This is best done at the annual ARD prior to the reevaluation date.

2. It is clearly the intent of the DOE and Congress that the parent be party to making the decision regarding the scope of the re-evaluation process.
  3. Thus, it is critical that the REED process happens with the parent prior to the reevaluation taking place.
  4. A REED may be conducted as a part of an ARD meeting or as a separate parent meeting between the parent and the assessment professional.
- Testing instruments for reevaluation purposes may include any which meet the standards listed above.
  - For eligibility purposes, prior testing may be readopted if the committee believes that it continues to be valid.\* Usually, the committee will want to gather additional information even if no formal testing is needed. In this instance, information can be gathered and a report written to coincide with the three year anniversary of the previous FIE date. (ARD committees should give careful, individual consideration when deciding if the ARD committee has enough information to forgo formal testing.)
  - If, through the REED, the ARD committee determines that no additional information is needed, an FIE can be completed on the spot. In this instance, the ARD date becomes the new FIE date.

\*A thorough assessment is needed in order to drive a student's educational program. Formal testing may or may not be needed to accomplish this and every evaluation decision must be based on the needs of the individual student. From a legal standpoint, the critical questions are:

1. Is there enough information to determine a child's strengths and weaknesses?
2. How many times since becoming eligible has this student had formal evaluation testing?
3. Is there enough information to develop an appropriate IEP?

If the answer to these questions is YES, formal testing would not be required.



### *EHBAA.SE.2.E Dismissal Considerations*

1. A PAARD is necessary prior to any dismissal including graduation.
2. Students may be dismissed from Special Education when they no longer meet criteria for a specific eligibility or when an educational need no longer exists.

### *EHBAA.SE.2.F Timelines:*

All students referred will have been assessed and a report written not later than the 45<sup>th</sup> school day after the receipt of the referral. The date of the referral is the date the parent signs the consent for assessment.

On receipt of a Child Find telephone call, which results in an evaluation request, the evaluation personnel assigned to that district will distribute referral forms to appropriate persons, within reasonable amount of time.

SB 816 May 2013 Defined timelines for evaluation as follows:

- 1)
  - ot later than 45 school days after initial consent for evaluation is obtained from the parents, the school will complete the FIE.
    - a.
      - f a student is absent for 3 or more days during that 45 school day period, the period must be extended by the number of days the student has been absent.
- 2)
  - or students under 5 on 9/1 of the school year and not enrolled in public school, the evaluation must be completed within 45 school days of consent.
- 3)
  - f consent is received at least 35 days before the last day of school but less than 45 days before the last day of school, the evaluation must be completed and the written report provided to the parent not later than June 30<sup>th</sup> of that year. The ARD to consider the FIE must be held by the 15<sup>th</sup> school day of the following school year. (If a student falls under this timeline, but is absent for 3 or more days, then the 45 school day timeline applies.)

- 4) If consent is received less than 35 days before the end of the school year, then the 45 school day timeline is applied.
- 5) If a parent makes a written request to the school district administrative employee for an FIE, then the district must respond within 15 school days to:
  - a. Provide an opportunity for the parent to provide consent, or
  - b. Provide to the parent a notice of refusal to evaluate.
- 6) Under Federal law and rule, once the FIE report has been written and signed within the timeframe defined by the state, the ISD has 30 calendar days to hold an ARD meeting to review the FIE and consider eligibility issues, except for circumstances of bullet 3) above (35-45 End of School Timeline).
- 7)

#### *AA.SE.2.G Procedural Safeguards*

1. Yearly, the Director of Special Education, or Designee of Special Education or Designee will provide current, updated copies of the TEA document, “Explanation of Procedural Safeguards” for distribution to parents/guardians, or adult students with a disability.
2. As needed, the Director of Special Education, or Designee of Special Education or Designee will train school personnel as to the interpretation and intent of the procedural safeguards document to insure the rights of students with disabilities.

#### General Notice

1. The Principal or Designee will provide a copy of the TEA publication “Explanation of Procedural Safeguards” to parents/guardians or adult students referred for an individual comprehensive assessment for the first time. School personnel will give full explanation and respond to all questions related to the procedural safeguards handout. The “Explanation of Procedural Safeguards” document will also be given at the following times:

2. Notice of the Admission, Review, and Dismissal (ARD) Committee Meeting – for the Annual ARD meeting. (This allows the district to meet the requirement to provide the procedural safeguards annually to the parent.)
3. Notice of Refusal to Provide Services
4. The Special Education Director of Special Education, or Designee or Designee will inform school personnel that the current rights document is available in Braille and on cassette tape in English, and Spanish. The document may be provided in other languages for parents upon request.
5. Parent request for an evaluation
6. When a due process complaint has been filed
7. Upon parent request

#### ***EHBAA.SE.2.H Evaluation (FIE)***

The multidisciplinary team that collects or reviews evaluation data in connection with the determination of a student's eligibility must include, but is not limited to, a licensed specialist in school psychology (LSSP), an educational evaluation personnel, or other appropriate certified or licensed practitioner with experience and training in the area of the disability, and the student's parent(s).

The evaluation personnel will assure that the student referred for evaluation is evaluated in the child's dominant language. If the primary language used in the student's home is not English, the district's language proficiency testing determines the student's dominant language.

A student between the ages of 3-5 who is evaluated as having intellectual disability, emotional disturbance, a specific learning disability, or autism may be described as noncategorical early childhood. The ARD committee will determine on an individual basis if NCEC is the appropriate classification instead of the specific disability indicated.

*This section is being added to the CSSSSA Policy Manual as a part of the ongoing review of necessary policy issues. Research has been done with respect to legal requirements and TEA guidance on these issues. In addition, information has been solicited from ESC 14 and through them the evaluation network. Specific changes to this policy update were made based on the*

*input of these parties. Final decisions regarding development of this policy are the responsibility of the CSSSSA and its member districts. (March 2010)*

### **Evaluation Time Lines**

Clock Start Date:

Initial Evaluation Date parent signs consent for evaluation see EHBAA.SE.2.F new  
Commissioner Rule for Day 1

Deadlines:

Initial Evaluation 45 school days from Consent see EHBAA.SE.2.F new  
Commissioner Rule for Day 1

Initial Evaluation ARD 30 calendar days from FIE completion

Re-Evaluation Date of previous FIE

Re-Evaluation Date of FIE plus 3 years (4/19/10 to 4/18/13)

#### **When FIE continues previous eligibility and no Program Changes are necessary**

The FIE should be reviewed at the next scheduled ARD meeting, but in no case later than the end of the school year in which the FIE was completed.

#### **When FIE DISCONTINUES/CHANGES/ADDS part or all of eligibility or there has been specific ARD committee or parent discussion of issues to be determined in the FIE:**

Upon completion of the FIE, the district should expedite the scheduling of an ARD committee to review the FIE and make the determination of eligibility. In this case, expedite means the district should attempt to hold the ARD within 10 calendar days, subject to parent scheduling issues. In no case should the ARD be held more than 30 calendar days after the report is completed.

*(Various time frame issues were considered when determining these policy statements. There is no written guidance from TEA or the Legal Framework guiding how long a district has between completion of a re-evaluation time frame and the ARD meeting to review those results. The district considered tightening these time frames, but input from evaluation professionals at the ESC pointed out that the district was unnecessarily limiting itself. The timelines adopted in this policy are designed to: 1) comply with existing rules and guidance, 2) provide for the needs of the students undergoing initial and review evaluations, and 3) provide for the efficient operation of regular and special education programming in the district. As a part of this policy, it should be noted that the district will err on the side of holding an ARD to review the FIE if there is any issue, concern, or interest that would cause it to seem the prudent action to take. Finally, absent written guidance from TEA, the individual opinion of TEA staff shall not serve to over-ride this policy.*

### **What do we do when a student moves into the district and the previous district had initiated an FIE?**

The critical issue is to determine/confirm that the previous school had acquired written consent for the evaluation to begin. If the previous district had taken steps leading up to acquiring written consent, but had not acquired written consent, then the evaluation had not started. If that were the case, then our district could proceed based on its own procedures and decision making.

However, if the previous school had obtained written consent, then we are obligated to carry forward the evaluation.

(The following is a direct quote from the Legal Framework.)

“The LEA must ensure that assessments of children with disabilities who transfer from one LEA to another LEA in the same academic year must be coordinated, as necessary and as expeditiously as possible, to ensure prompt completion of full evaluations.

If a child enrolls in the new LEA after the 45-day timeframe for an initial evaluation of the child has begun and before a determination by the child's previous LEA as to whether the child is a child with a disability, the 45-day [EVALUATION PROCEDURES](#) timeframe does not apply to the new LEA if:

- 1) The LEA is making sufficient progress to ensure a prompt completion of the evaluation;
- 2) The parent and LEA agree to a specific time when the evaluation will be completed; and
- 3) The initial evaluation is completed not later than the 45 school day following the date on which the new LEA receives [CONSENT FOR INITIAL EVALUATION](#).”

Thus, if we had a student move into the district and the child has already started an evaluation in his previous district (Consent was signed.), then this is what we would do:

- 1) Have parent sign a Consent for Evaluation Form for us.
- 2) The Notice of Assessment/Evaluation form should have the following notes:
  - a. The following information led to the decision to test: Other: Student enrolled with FIE initiated in previous district
  - b. Options considered: Not Evaluating
  - c. Why Rejected: Evaluation required because previous school initiated
  - d. Other factors relevant to this evaluation: The school and parent have agreed that this evaluation will be completed by (Date) [This date can be no longer than 45 school days. Depending on how long ago the parent signed consent in the previous district, it should be shorter. We do have the right to enough time to do the evaluation. We are expected to expedite the evaluation.]

### ***EHBAA.SE.2.I Supplemental Evaluations***

When the ARD committee determines that it is necessary to have a supplemental evaluation done, the following information applies.

1. A supplemental evaluation does not require that the FIE be completely rewritten. The ARD committee may use the supplemental evaluation, in conjunction with the information they have from the previous FIE to make educational decisions.
2. The diagnostician may choose to completely rewrite the FIE in order to keep all evaluations in the same cycle. If the diagnostician wants to do this, then it is necessary to REED and so indicate.
3. If the supplemental evaluation is done and the FIE is not rewritten, then the diagnostician should place the new evaluation behind the current FIE in the eligibility folder. Also, the evaluation should be noted in the ARD committee document, including the date of the supplemental evaluation. The ARD committee should consider what action, if any, is necessary for the student based on the evaluation. ARD minutes should state that the

committee considered the supplemental evaluation along with current FIE information in making their decision.

4. A student who has a supplemental evaluation done, but does not have his/her FIE rewritten, does not get a new FIE date. In other words, the only way to reset the 3 year clock on the FIE, is to complete a new FIE. (Any new FIE should be preceded by a REED.)
5. When the next FIE is due for a student who has had a supplemental evaluation in the interim, it is a good practice to redo, or readopt as appropriate, all evaluations so that they are all on the same time-line from that point forward. This action, of course, would be outlined first in the REED preceding the new FIE.
6. A request for a supplemental evaluation must originate via: ARD, ARD amendment, or REED.

### *EHBAA.SE.2.J Independent Educational Evaluation*

#### *EHBAA.SE.2.J.1 Policy on Independent Evaluations*

It is the policy of the Comanche Special Services SSA, to provide for independent evaluations at the request of parents in keeping with the requirements of IDEA. As such, if a parent disagrees with an evaluation that was done by or for the Comanche Special Services SSA, then the parent may request an independent evaluation. The following procedures will be used in providing for that evaluation.

#### Right to an Independent Evaluation

Comanche Special Services SSA may offer to resolve the parent's disagreement by providing an additional evaluation; however the parent is not required to accept the district's offer. A parent may seek an Independent Educational Evaluation (IEE) if the parent disagrees with all or part of a comprehensive assessment obtained by Comanche Special Services SSA. An IEE means an evaluation conducted by a qualified examiner who is not employed by Comanche Special Services SSA nor is responsible for the education of the child in question. Such an IEE may be paid for by Comanche Special Services SSA if the IEE meets the Comanche Special Services SSA criteria. However, Comanche Special Services SSA may at its option, initiate a due process hearing to show that its own evaluation is appropriate. If Comanche Special Services SSA prevails in the hearing, the parent still has the right to an IEE but not at public expense.

#### Number of IEE'S

If Comanche Special Services SSA has not conducted an evaluation, the parent does not have a right to an independent evaluation at public expense. Only one IEE may be reimbursed for each comprehensive evaluation obtained by Comanche Special Services SSA. The results of a parent-initiated IEE will be considered by Comanche Special Services SSA, but such consideration does not make Comanche Special Services SSA financially responsible for reimbursement of the IEE.

#### Request for IEE

Information on where an IEE may be obtained will be provided to parents upon written request. A list of individuals who can provide an IEE may be obtained at the Special Education Director's office.

In order to obtain an IEE at public expense, the parent or guardian must notify the special education director in writing.

If the parent requests an IEE from any staff member or campus principal, the parent will be provided the name and phone number of the Special Education Director and asked to notify that administrator immediately so that proper steps may be taken to address their request for an IEE.

If the parent requests an IEE during an ARD/IEP meeting, the minutes will document that the parent was asked to provide reasons why they object to the Comanche Special Services SSA evaluation. If the parent does not provide any specific reason, that also will be documented in the minutes.

If a parent requests an IEE, Comanche Special Services SSA may ask for the parent's reason why he or she objects to the public evaluation. However, Comanche Special Services SSA may not require the parent to provide an explanation and may not unreasonably delay either providing the independent educational evaluation at public expense or filing a due process hearing to defend the public evaluation.

The special education Director, in consultation with appropriate Comanche Special Services SSA staff, will determine whether to pay for the IEE or file for due process hearing.

A list of potential IEE providers will be maintained and provided to the parent by the Special Education Director. If the parent chooses not to use someone on the list, they must provide the name and contact information of that provider to Comanche Special Services SSA in order that we can develop a written contract with that provider.

The parent or guardian should request an IEE as soon as possible, but no later than six months following Comanche Special Services SSA 's evaluation in question. The IEE request should specify areas of disagreement with Comanche Special Services SSA 's evaluation and list assessment questions to be addressed by the IEE. The parent or guardian should provide the name of a proposed evaluator, to allow Comanche Special Services SSA to check certification and/or licensure of evaluator as well as make contact directly with the evaluator to ascertain



whether the proposed evaluator is willing to enter into a contract with Comanche Special Services SSA.

### Qualifications of the Examiner

Evaluators must provide proof of expertise in the area of evaluation techniques and interpretation and in the area of dispute. Additionally the evaluator must have current certification or license in the area of suspected disability and/or educational need. The criteria, under which the evaluation is obtained including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that Comanche Special Services SSA uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an IEE. The IEE Evaluator's requirements are as follows:

1. The IEE examiner will have the same qualifications as the Comanche Special Services SSA assessment personnel (e.g., Licensed Specialist in School Psychology, or educational diagnostician) and as required by Texas law and the Texas Education Agency.
2. The evaluation will be conducted in the school building to which the student is assigned unless clearly not feasible.
3. The IEE examiner will have access to the student's cumulative folder and special education folders in gathering information about the student.
4. The IEE examiner should meet school ARD committee to gather information about the student prior to the assessment and to share information following the assessment.
5. The IEE examiner will follow federal and state assessment regulation and rules, reporting requirements and established eligibility criteria for the diagnosis of students with disabilities according to state and federal regulations regarding special education.
6. The IEE evaluator must be located within a 200 mile radius of Comanche Special Services SSA. The will allow the IEE evaluator access to the public school for multiple observations of the student and access to ARD/IEP meetings.

### Evaluation Procedures

Evaluators must agree to follow TEA guidelines in completing the evaluation. The evaluation should be designed to address whether or not the child has a disability as set forth in federal and state law and to assess specific areas of educational need.

Evaluators must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parent and the

school and should not use any single measure or assessment as the sole criterion for determining if the child is a child with a disability.

Assessment instruments, materials and techniques must be: 1) selected and administered so as not to be discriminatory on a racial, cultural or sexual basis, 2) provided and administered in the language and form most likely to yield accurate information on what the child knows and can do academically, developmentally and functionally, 3) used for purposes for which the assessments or measures are valid and reliable, and 4) administered in accordance with any instructions provided by the producer of the assessment instruments.

Before beginning the IEE, the IEE evaluator must agree to a written contract with Comanche Special Services SSA which must include the following criteria:

An established rate for the service

1. Travel or other incidental costs to be reimbursed
2. Timelines which meet the TEA criteria for evaluations
3. Specific areas of testing to be completed
4. Agreement to attend and present the IEE at any ARD committee meeting or any instance of defense of the IEE

#### Written Report

The evaluator must provide an original typed or computer-generated evaluation report within 30 calendar days from the date Comanche Special Services SSA mails a written authorization to the evaluator and no later than five (5) days prior to the Admission, Review and Dismissal (ARD) committee meeting. Protocols must be available for review District personnel who are trained in the administration and interpretation of such tests. The report must include an original signature and title of all persons participating in the evaluation. The report must comply with all requirements of state and federal regulations.

#### Condition of Payment

Reimbursement/payment will be made directly to the evaluator upon receipt of an evaluation report which meets all of Comanche Special Services SSA 's/TEA's criteria. Parents obtaining an IEE without following District's procedures will risk non- payment.

#### Reasonable Fees

Comanche Special Services SSA will not pay unreasonably excessive fees. An unreasonably excessive fee is one that is 25% or more above the prevailing fees in the area (as established in

the Medicaid/Medicare Service Provider Manual) by professionals who are qualified to conduct specific tests and the unique circumstances of the child. This determination will be made by the director of special education.

#### Conditions for Waiver of Cost

Parents will be allowed the opportunity to demonstrate to an ARD committee that unique circumstances justify an IEE that does not fall within Comanche Special Services SSA 's criteria.

#### Reimbursement for Unilaterally Obtained IEE

Comanche Special Services SSA will not consider a parent request for payment for a unilaterally parent-initiated IEE unless the request is made within a reasonable time after receipt of the results of the evaluation. A reasonable time is defined as 90 calendar days. The request will be presented to the ARD Committee for action. Comanche Special Services SSA can request a due process hearing to prove its own evaluation is appropriate. This can occur before an IEE is conducted; or, after the parent has obtained one and is asking for reimbursement. Comanche Special Services SSA will deny payment of an IEE conducted by someone who does not meet minimum qualifications.

#### Parent Initiated IEE

The results of a parent-initiated IEE obtained at private expense will be considered by Comanche Special Services SSA in any decision made with respect to the provision of a free appropriate public education to the student. Comanche Special Services SSA will deny payment of an IEE conducted by an evaluator who does not meet the minimum qualifications, if the IEE does not meet minimum Texas Education Agency criteria for the specific disability identified and/or if the IEE does not meet all state and federal requirements.

#### State and Federal Law

Information regarding other evaluation requirements included in state and federal law is available at the following websites:

<http://www.tea.state.tx.us/special.ed/rules/sbs.html>

<http://framework.esc18.net/>

<http://www.tea.state.tx.us/special.ed/explansaf>

<http://ritter.tea.state.tx.us/rules/tac/chapter089/ch089aa.html>

### *EHBAA.SE.2.K Staff Responsibilities Evaluation*

### *EHBAA.SE.2.L Staff Responsibilities Reevaluation*

1. As a part of the 3 year reevaluation data gathered, both regular and special education teachers will complete the assistive technology information portion of the reevaluation packet.
2. The designated diagnostician / speech pathologist will review the reevaluation information and complete the Assistive Technology Checklist to determine if a referral to the Assistive Technology Team needs to be completed.
3. Upon receipt of an Assistive Technology Team referral, the technology team chairperson shall arrange for appropriate personnel to complete an in-depth evaluation.
4. The Assistive Technology Team will submit a written report within the designated timelines for ARD Committee consideration.
- 5.

### *EHBAB.SE.2.1 State Assessments*

As part of the ARD process, the committee will consider what state assessment is appropriate for each child, if appropriate. ARD committees will use the materials in the “ARD Committee Decision – Making Process for the Texas Assessment Program”

### *EHBAA.SE.3 Eligibility*

“Whether a child’s disability ‘adversely affects a child’s educational performance’ is considered for all disability categories in 34 CFR §300.8©, because, to be eligible, a child must qualify as a child with a disability under 34 CFR §300.8 and need special education because of a particular impairment or condition. Although the phrase ‘adversely affects education performance’ is not specifically defined, the extent of the impact that the child’s impairment or condition has on the child’s educational performance is a decisive factor in a child’s eligibility determination under Part B. The evaluation and eligibility determination processes are sufficient for the group of qualified professionals and the parent to ascertain how the child’s impairment or disability affects the child’s ability to function in an educational setting. A range of factors—both academic and nonacademic—can be considered in making this determination for each individual child. See 34 CFR §300.306(c). Even if a child is advancing from grade to grade or is placed in the regular educational environment for most or all of the school day, the group charged with making the eligibility determination still could determine that the child’s impairment or

condition adversely affects the child’s educational performance because the child could not progress satisfactorily in the absence of specific instructional adaptations or supportive services, including modifications to the general education curriculum. 34 CFR §300.101(c) (regarding requirements for individual eligibility determinations for children advancing from grade to grade).” OSEP Letter (November 28, 2007)

### *EHBAA.SE.3.A Consent for Services*

#### Elements of Consent for the Initial Provision of Services

1. The “informed consent” that the LEA must obtain before the initial provision of special education and related services means:
  - a) The parent has been fully informed of all information relevant to the initial provision of special education and related services in his or her native language or other mode of communication;
  - b) The consent describes the initial provision of special education and related services;
  - c) The consent lists the records (if any) that will be released and to whom;
  - d) The parent understands and agrees in writing to the carrying out of the initial provision of special education and related services;
  - e) The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at anytime;
  - f) The parent understands that if the parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked); and
  - g) The parent understands that if the parent revokes consent in writing for their child’s receipt of special education services after the child is initially provided special education and related services, the LEA is not required to amend the child’s education records to remove any references to the child’s receipt of special education and related services because of the revocation of consent.

#### When Despite Reasonable Efforts, Consent is not Obtained for the Initial Provision of Services:

1. The LEA must make reasonable efforts to obtain informed consent for the initial provision of services.

2. If the parent refuses to respond or refuses to consent to the initial provision of special education and related services, the LEA:
  - a) May not use the procedural safeguards (including the mediation or the due process procedures) in order to obtain agreement or a ruling that services may be provided to the child;
  - b) Will not be considered to be in violation of the requirement to make available a free appropriate public education (FAPE) to the child because of the failure to provide the child with the special education and related services for which the LEA requests consent; and
  - c) Is not required to convene an admission, review, and dismissal (ARD) committee meeting or develop and individualized education program (IEP) for the child.

When Consent for the Continued Provision of Services is Revoked:

1. Revocation of consent by a parent for the continued provision of special education and related services must be in writing.
2. If, at any time subsequent to the initial provision of special education and related services, the parent of a child revokes consent for the continued provision of special education and related services, the LEA:
3. May not continue to provide special education and related services to the child;
4. Must provide Prior Written Notice before ceasing the provision of special education and related services;
5. May not use the Procedural Safeguards (including the mediation procedures or the due process procedures) in order to obtain agreement or a ruling that the services may be provided to the child;
6. Will not be considered to be in violation of the requirement to make a FAPE available to the child because of the failure to provide the child with further special education and related services; and
7. Is not required to convene an ARD committee meeting or develop an IEP for further provision of special education and related services for the child.

*EHBAA.SE.3.B Consent to Access Private Insurance*

Elements of Consent to Access Private Insurance: The “informed consent” that the LEA must obtain to access private insurance means:

1. The parent has been fully informed of all information relevant to the LEA accessing the parent’s private insurance in his or her native language or other mode of communication;
2. The parent is informed that the parent’s refusal to permit the LEA to access their private insurance does not relieve the LEA of its responsibility to ensure that all required services are provided at no cost to the parents;
3. The consent describes the activity of the LEA accessing the parent’s private insurance;
4. The consent lists the records (if any) that will be released and to whom;
5. The parent understands and agrees in writing to the LEA carrying out accessing the parent’s private insurance;
6. The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time; and
7. The parent understands that if the parent revokes consent, that revocation is not retroactive (i.e., it does not negate an action that has occurred after the consent was given and before the consent was revoked).

### *EHBAA.SE.3.C Consent to Access Public Benefits*

The LEA may use the Medicaid or other public benefits or insurance programs in which a child participates to provide or pay for services required under the Individuals with Disabilities Education Act (IDEA), as permitted under the public benefits or insurance program.

Elements of Consent to Access Public Benefits: The “informed consent” that the LEA must obtain to access public benefits means:

1. The parent has been fully informed of all information relevant to the LEA’s use of public benefits or insurance in his or her native language or other mode of communication, including that the LEA may not:
  - a) Require parents to sign up for or enroll in public benefits or insurance programs in order for their child to receive a free appropriate public education (FAPE);
  - b) Require parents to incur an out-of-pocket expense such as the payment of a deductible or co-pay amount incurred in filing a claim;

- c) Use a child's benefits under a public benefits or insurance program if that use would decrease available lifetime coverage or any other insured benefit;
  - d) Use a child's benefits under public benefits or insurance program if that use would result in the family paying for services that would otherwise be covered by the public benefits or insurance program that are required for the child outside of the time the child is in school;
  - e) Use a child's benefits under a public benefits or insurance program if that use would increase premiums or lead to the discontinuation of benefits or insurance; and
  - f) Use a child's benefits under a public benefits or insurance program if that use would risk loss of eligibility for home and community-based waivers, based on aggregate health-related expenditures.
2. The parent is informed that the parent's refusal to allow access to public benefits or an insurance program in which the child participates does not relieve the LEA of its responsibility to ensure that all required services are provided at no cost to the parents;
  3. The consent describes the activity of the LEA accessing public benefits or an insurance program;
  4. The consent lists the records (if any) that will be released and to whom;
  5. The parent understands and agrees in writing to the LEA accessing the public benefits or insurance program in which the child participates;
  6. The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time; and
  7. it does not negate an action that has occurred after the consent was given and before the consent was revoked).

### *EHBAA.SE.3.D Eligibility Areas*

#### *EHBAA.SE.3.D.1 Auditory Impairment (03)*

Criteria: The procedures and materials used for the assessment and placement of a child who is deaf or hard of hearing must be in the child's preferred mode of communication.



1. The evaluation data reviewed by the group must include:
  - a) An ontological examination;
  - b) An audiological evaluation; and
  - c) A description of the implications of the hearing loss in a variety of circumstances with or without recommended amplification.
2. A child may be considered to be a child with an auditory impairment if:
  - a) The auditory impairment adversely affects the child's educational performance;
  - b) By reason of the auditory impairment, the child needs special education and related services ; and
  - c) The child has deafness meaning a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing: with amplification; or without amplification; or
  - d) The child has a hearing impairment not included in the definition of deafness that is: a permanent impairment of hearing; or a fluctuating impairment of hearing.

Communication Needs: The group must determine the child's potential for communication through a variety of means, including through:

1. Oral (spoken) means;
2. Aural (hearing) means;
3. Finger spelling; or
4. Sign language.

### ***EHBAA.SE.3.D.2 Autism (10)***

Criteria: Characteristics often associated with autism are:

1. Engagement in negative activities and stereotypical movements;
2. Resistance to environmental changes or change in daily routines; and
3. Unusual responses to sensory experiences.

4. A child may be considered to be a child with autism if:
  - a) The child has a developmental disability significantly affecting: verbal communication; nonverbal communication; and social interaction;
5. The characteristics of autism:
  - a) Are generally evident before age three; but
  - b) Could be manifested after age three;
  - c) The autism adversely affects the child's educational performance; and
  - d) By reason of the autism, the child needs special education and related services.
6. Children with pervasive developmental disorders (PDD) are included under the disability category of autism.
7. A child may not be considered to be a child with autism if the child's educational performance is adversely affected primarily because the child has an Emotional Disturbance (ED).

Specific Recommendations: The group must make specific recommendations for behavioral interventions and strategies.

#### *EHBAA.SE.3.D.3 Deaf-Blindness (05)*

Criteria: The procedures and materials used for the assessment and placement of a child who is deaf or hard of hearing must be in the child's preferred mode of communication.

A child may be determined to be a child with deaf-blindness if:

1. The child meets the specific eligibility criteria for
  - a) Auditory Impairment and Visual Impairment (including Blindness);  
or
  - b) The child meets eligibility criteria for Visual Impairment (including Blindness) and has a suspected hearing loss that cannot be demonstrated conclusively, but there is no speech at an age when

speech would normally be expected, as determined by a speech/language therapist, a certified speech and language therapist, or a licensed speech language pathologist; or

2. The child has documented:
  - a) 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
  - b) Medical diagnosis of a progressive medical condition that will result in concomitant auditory and visual losses that, without special education intervention, will adversely affect educational performance; and
3. The combination of auditory and visual impairments causes such severe communication and other developmental and education needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness; and
4. By reason of the deaf-blindness, the child needs special education and related services.
5. For a child from birth through two years of age with a visual impairment (including blindness) and/or an auditory impairment, an individualized family service plan (IFSP) meeting must be held in place of an ARD committee meeting. The local educational agency (LEA) must comply with the Ages 0-5 framework.

#### ***EHBAA.SE.3.D.4 Emotional Disturbance (07)***

Criteria: A child may be considered to be a child with an emotional disturbance if:

1. The child exhibits one or more of the following characteristics:
  - a) An inability to learn that cannot be explained by intellectual, sensory, or health factors;
  - b) An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
  - c) Inappropriate types of behavior or feelings under normal circumstances;

- d) A general pervasive mood of unhappiness or depression; or
  - e) A tendency to develop physical symptoms or fears associated with personal or school problems;
2. The characteristic(s) is/are exhibited by the child:
    - a) Over a long period of time; and
    - b) To a marked degree;
  3. The emotional disturbance adversely affects the child's educational performance; and
  4. By reason of the emotional disturbance, the child needs special education and related services.
  5. Emotional Disturbance includes schizophrenia.
  6. Emotional Disturbance does not include social maladjustment, unless the child also has an emotional disturbance under the other criteria listed below.

Specific Recommendations: The group must make specific recommendations for behavioral supports and interventions.

#### ***EHBAA.SE.3.D.5 Intellectually Disabled (06)***

Criteria: A child may be considered to be a child with intellectually disabled if:

1. When given a standardized, individually administered test of cognitive ability, the child demonstrates significantly sub average general intellectual functioning in which the overall test score is at least two standard deviations below the mean, when taking into consideration the standard error of measurement of the test;
2. The child demonstrates concurrent deficits in at least two of the following areas of adaptive behavior:
  - a) Communication;
  - b) Self-Care;
  - c) Home living;
  - d) Social/interpersonal skills;
  - e) Use of community resources;

- f) Self-direction;
  - g) Functional academic skills;
  - h) Work;
  - i) Leisure;
  - j) Health; and
  - k) Safety;
3. The child's deficits are manifested during the developmental period; and
  4. By reason of the Intellectually Disabled, the child needs special education and related services.

***EHBAA.SE.3.D.6 Multiply Disabled (99)***

Criteria: A child may be considered to be a child with multiple disabilities if:

1. The child has two or more impairments occurring simultaneously, such as:
  - a) Intellectually disabled -blindness; and
  - b) Intellectually disabled -orthopedic impairment;
  - c) The disabilities are expected to continue indefinitely;
2. The disabilities severely impair the child's performance in two or more of the following areas:
  - a) Psychomotor skills;
  - b) Self-care skills;
  - c) Communication;
  - d) Social and emotional development; or
  - e) Cognition;
3. The combination of disabilities causes such severe educational needs that cannot be accommodated in special education programs solely for one of the impairments; and

4. By reason of the multiple disabilities, the child needs special education and related services.
5. Multiple disabilities does not include deaf-blindness.

***EHBAA.SE.3.D.7 Non-categorical Early Childhood (14)***

Criteria: A child may be described as a child with noncategorical early childhood if:

1. The child is between the ages of 3-5; and
2. The child meets the specific eligibility criteria for one of the following:
  - a) Mental retardation;
  - b) Emotional disturbance;
  - c) Specific learning disability; or
  - d) Autism.

***EHBAA.SE.3.D.8 Orthopedic Impairment (01)***

Definition: The term orthopedic impairment includes impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures); impairments caused by a congenital anomaly; and impairments caused by disease (e.g., poliomyelitis, bone tuberculosis).

Criteria: A child may be considered to be a child with an orthopedic impairment if:

1. The child has been determined to have a severe orthopedic impairment.
2. The severe orthopedic impairment adversely affects a child's educational performance; and
3. By reason of the severe orthopedic impairment, the child needs special education and related services.

***EHBAA.SE.3.D.9 Other Health Impaired (02)***

Criteria: A child may be considered to be a child with an other health impairment if:

1. The child has chronic or acute health problems, such as:
  - a) Asthma;
  - b) Attention Deficit Disorder or Attention Deficit Hyperactivity Disorder;
  - c) Diabetes;
  - d) Epilepsy;
  - e) A heart condition;
  - f) Hemophilia;
  - g) Lead Poisoning;
  - h) Leukemia;
  - i) Nephritis;
  - j) Rheumatic Fever;
  - k) Sickle Cell Anemia; and
  - l) Tourette Syndrome.
2. The health problems manifest themselves as: limited strength; limited vitality; or limited alertness. (Including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment.);
3. The other health impairment adversely affects a child's education performance; and
4. By reason of the other health impairment, the child needs special education and related services.

***EHBAA.SE.3.D.10 Specific Learning Disability (08)***

Prior to Assessment for SLD it is recommended that students participation in a Response to Intervention (RtI) Process:

1. RtI is high-quality instruction or tiered intervention strategies matched to individual needs of the child that have been demonstrated through scientific research and practice that result in high learning rates for most children.

2. A teacher is required to attend a reading academy if the teacher provides instruction in reading, mathematics, science, or social studies to children at the sixth, seventh, or eighth grade level at a campus that fails to satisfy any standard under the TEA's standards for evaluating campus performance on the basis of performance on the Texas Assessment of Knowledge and Skills (TAKS) reading assessment instrument administered to children in any grade level at the campus.
3. If the child has participated in a process that assesses the child's response to scientific, research-based intervention, the documentation of the specific learning disability (SLD) determination of eligibility must contain a statement of:
  - a) The instructional strategies used and the child-centered data collected; and
  - b) The documentation that the child's parents were notified about:
    - i. The State's policies regarding the amount and nature of performance data of the child that would be collected and the general education services that would be provided;
    - ii. Strategies for increasing the child's rate of learning; and
    - iii. The parents' right to request an evaluation.

Observation:

1. The local educational agency (LEA) must ensure that the child is observed in the child's learning environment (including the regular classroom setting) to document the child's academic performance and behavior in the areas of difficulty.
2. In determining whether a child has an SLD, the group must decide to either:
  - a) Use information from an observation in routine classroom instruction and monitoring of the child's performance that was done before the child was referred for an evaluation; or
  - b) Have at least one member of the group conduct an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and Consent is obtained from the Parent.
3. For a child less than school age or out of school, a group member must observe the child in an environment appropriate for a child of that age.



4. The documentation of the determination of SLD eligibility must contain a statement of:
  - a) The relevant behavior, if any, noted during the observation of the child;  
and
  - b) The relationship of that behavior to the child's academic functioning.

Criteria: A child may be considered to be a child with an SLD if:

1. The child does not achieve adequately for the child's age or to meet State-approved grade-level standards, in one or more of the following areas:
  - a) Oral Expression;
  - b) Listening comprehension;
  - c) Written expression;
  - d) Basic reading skill;
  - e) Reading fluency skills;
  - f) Reading comprehension;
  - g) Mathematics calculation; or
  - h) Mathematics problem solving;
2. The child's lack of adequate achievement is indicated by performance on multiple measures, such as:
  - a) In-class tests;
  - b) Grade average over time (e.g., six weeks, semester);
  - c) Norm- or criterion-referenced tests;
  - d) Statewide assessments; or
  - e) A process based on the child's response to scientific, research-based intervention;
3. The child does not make sufficient progress under the additional criteria of an RtI Model, or the child meets the additional criteria under a Pattern of Strengths or Weaknesses Model.
4. The child's lack of adequate achievement is not primarily the result of Exclusionary Factors;
5. The child's lack of adequate achievement is not due to a Determinant Factor;

6. The child has an SLD which 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, including conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia; and
7. By reason of the SLD, the child needs special education and related services.

RtI Model:

1. When using a process based on the child's response to intervention to determine an SLD, including:
  - a) Repeated, curriculum-based assessments of achievement;
  - b) At reasonable intervals; and
  - c) Reflecting progress of the child during classroom instruction.
2. A finding that the child meets the Criteria for SLD must include a determination that:
  - a) The child does not make sufficient progress to meet age or State-approved grade-level standards when provided a process based on the child's response to scientific, research-based intervention:
    - i. As indicated by the child's performance relative to the performance of the child's peers.

Pattern of Strengths and Weaknesses Model:

1. When applying the State's pattern of strengths and weaknesses model, finding that the child meets the Criteria for SLD must include a determination that:
  - g) The child exhibits a pattern of strengths and weaknesses in:
    - i. Performance;
    - ii. Achievement; or
    - iii. Both;
  - b) The pattern is relative to:
    - i. Age;
    - ii. State-approved grade-level standards; or
    - iii. Intellectual development;

- c) The pattern is evident as indicated by significant variance among specific areas of cognitive function, such as:
  - i. Working memory and verbal comprehension; or
  - ii. Between specific areas of cognitive function and academic achievement; and
- d) The pattern is relevant to the identification of a specific learning disability using appropriate assessments.

Exclusionary Factors: The documentation of the determination of SLD eligibility must contain a statement of the determination of the group concerning the effects on the child's achievement level of:

- 1. A visual, hearing, or motor disability;
- 2. Mental Retardation;
- 3. Emotional disturbance;
- 4. Cultural factors;
- 5. Environmental or economic disadvantage; or
- 6. Limited English proficiency.

The group must determine that its findings are not primarily the result of:

- 1. A visual, hearing, or motor disability;
- 2. Mental Retardation;
- 3. Emotional disturbance;
- 4. Cultural factors;
- 5. Environmental or economic disadvantage; or
- 6. Limited English proficiency.

Determinant Factor: To ensure that underachievement in a child suspected of having an SLD is not due to lack of appropriate instruction in reading or mathematics, the group must consider, as part of the evaluation:

- 1. Data that demonstrates that prior to , or as a part of, the referral process, the child was provided with instruction which was:
  - a) Delivered by qualified personnel;
  - b) Within regular education settings;
  - c) Appropriate in the area of reading; and/or

- d) Appropriate in the area of mathematics;
2. Data-based documentation of repeated assessments of achievement:
  - a) At reasonable intervals;
  - b) Reflecting formal evaluation of progress of a child during instruction; and
  - c) Which was provided to the child's parents.
3. Data-based documentation of repeated assessments may include, but is not limited to:
  - a) RtI progress monitoring results;
  - b) In-class tests on grade-level curriculum; or
  - c) Other regularly administered assessments.
4. Intervals are considered reasonable if consistent with the assessment requirements of a child's specific instructional program.

Conclusion: The documentation of the determination of SLD eligibility must contain a statement of:

1. Whether the child has an SLD;
2. The basis for making the determination, including an assurance that the determination has been made in accordance with the evaluation procedures; and
3. The educationally relevant medical findings, if any.
4. If the report does not reflect a group member's conclusion, that group member must submit a separate statement presenting the member's conclusion.
5. Each group member must certify in writing whether the report reflects the member's conclusion.

#### ***EHBAA.SE.3.D.11 Speech Impairment (09)***

Criteria: A child may be determined to be a child with speech or language impairment if:

1. The child has a communication disorder:
  - a) Such as, stuttering, impaired articulation, a language impairment, or a voice impairment;
2. The speech or language impairment adversely affects the child's education performance; and

3. By reason of the speech or language impairment, the child needs special education and related services.

*EHBAA.SE.3.D.12 Traumatic Brain Injury (13)*

Definition: Traumatic Brain Injury (TBI) is defined as 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 child's educational performance. TBI has become known as the 'silent epidemic'.

Criteria: A child may be considered to be a child with traumatic brain injury (TBI) if:

1. The child has an acquired injury to the brain caused by an external physical force;
2. The injury results in total or partial functional disability or psychosocial impairment, or both;
3. Applies to both open or closed head injuries resulting in impairments in one or more areas, such as:
  - a) Cognition;
  - b) Language;
  - c) Memory;
  - d) Attention;
  - e) Reasoning;
  - f) Abstract thinking;
  - g) Judgment;
  - h) Problem-solving;
  - i) Sensory, perceptual, and motor abilities;
  - j) Psychosocial behavior;
  - k) Physical functions;
  - l) Information processing; and
  - m) Speech.
4. The traumatic brain injury adversely affects the child's educational performance; and

5. By reason of the traumatic brain injury, the child needs special education and related services.

*EHBAA.SE.3.D.13 Visual Impairment (including Blindness) (04)*

Criteria: A child may be considered to be a child with a visual impairment if:

1. The licensed ophthalmologist or optometrist determines:
  - a) The child has a progressive medical condition that will result in no vision or a serious visual loss after correction; or
  - b) The child has no vision or has a serious visual loss after correction;
2. The visual impairment adversely affects educational performance; and
3. The functional vision evaluation and a learning media assessment indicate that, by reason of the visual impairment, the child has a need for special education and related services.

Vision Evaluation: The licensed ophthalmologist or optometrist should provide a statement in a written report of the child's prognosis whenever possible; and the licensed ophthalmologist or optometrist must provide a statement in a written report of:

1. Visual loss in exact measures for:
  - a) Visual field; and
  - b) Corrected visual acuity at a distance and at close range in each eye;
2. If exact measures cannot be obtained, a statement to that effect and best estimates.

Functional Vision Evaluation: The functional vision evaluation conducted by a professional certified in the education of children with visual impairments or a certified orientation and mobility instructor must:

1. Include the performance of tasks in a variety of environments;
2. Require the use of both near and distance vision; and
3. Contain recommendations concerning the need for a clinical low vision evaluation and an orientation and mobility evaluation.

Learning Media Assessment: The learning media assessment must be conducted by a professional certified in the education of children with visual impairments and must include recommendations concerning:

1. Which specific visual, tactual, and/or auditory learning media are appropriate for the child;
2. Appropriate reading and writing media (including the child's future needs for instruction in Braille or the use of Braille); and
3. Whether or not there is a need for ongoing evaluation in this area.

Functionally Blind: The group must determine, based on a functional vision evaluation and a learning media assessment, whether the child is functionally blind. A child is functionally blind if:

1. The child will use tactual media (which includes Braille); and
2. The tactual media used by the child are the child's primary tool for learning:
  - a) To be able to communicate in both reading and writing;
  - b) At the same level of proficiency as other students of comparable ability.
3. For a child who is functionally blind, the group must determine the child's strengths and weaknesses in Braille skills.

Eligibility Determination: For a child from birth through two years of age with visual impairments, and individualized family service plan (IFSP) meeting must be held in place of an ARD committee meeting. The LEA must comply with the ages 0-5 framework.

### *EHBAB.SE.1 ARD Committee Membership*

#### *EHBAB.SE.1.A Required Members Of The Admission, Review, And Dismissal Committee*

- A representative of the local educational agency (LEA):
  - Who is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
  - Who is knowledgeable about the general education curriculum; and
  - Who is knowledgeable about the availability of resources of the LEA;
- The parents of a child with a disability as required by the PARENT PARTICIPATION framework;
- Not less than one regular education teacher of such child (if the child is, or may be, participating in the regular education environment):
  - Who is a regular education teacher responsible for implementing a portion of the child's IEP; and

- Who, as a member of the ARD committee, to the extent appropriate, participates in the development, review and revision of the individualized education program (IEP), including the determination of appropriate positive behavioral interventions and supports and other strategies for the child and supplementary aids and services, program modifications and supports for school personnel;
- Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of such child:
  - Who is appropriately certified or licensed;
- An individual who can interpret the instructional implications of evaluation results:
  - Who may be one of the other members;
- Other individuals who have knowledge or special expertise regarding the child, at the discretion of the parent or the LEA:
  - Including related services personnel as appropriate;
  - Including, in the case of a child who was previously served under the Early Childhood Intervention (ECI) program, at the request of the parent, by invitation to the initial ARD meeting, the ECI service coordinator or other representatives of the ECI system to assist with the smooth transition of services; and
  - Including to the extent appropriate, with CONSENT FOR DISCLOSURE OF CONFIDENTIAL INFORMATION, a representative of any participating agency that is likely to be responsible for providing or paying for transition services;
- The child with a disability, whenever appropriate, when the purpose of the meeting will be the consideration of TRANSITION SERVICES, and in compliance with the ADULT STUDENT framework;
- A teacher who is certified in the education of children with auditory impairments for a child with a suspected or documented auditory impairment including suspected or documented deaf-blindness;
- A teacher who is certified in the education of children with visual impairments for a child with a suspected or documented visual impairment including suspected or documented deaf-blindness;
- A member of the language proficiency assessment committee (LPAC) when determining participation in STATE AND DISTRICTWIDE ASSESSMENTS for a child with limited English proficiency, to address the child's language needs; and
- A representative from Career and Technical Education (CTE), preferably the teacher when considering initial or continued placement of a child in CTE.

***EHBAB.SE.1.B Consent to Excuse Member from Attending ARD Committee Meeting***

At the discretion of the school district, the district may use the procedures outlined under the law to excuse ARD committee members.

1. The parent and the LEA agree:
  - a. The member's attendance is not necessary; and



- b. The member's area of the curriculum or related services is not being modified or discussed in the meeting; and
2. The parent's agreement is in writing.
3. The meeting involves a modification to or discussion of the member's area of the curriculum or related services;
4. The parent and the LEA CONSENT TO EXCUSE MEMBER FROM ATTENDING ARD COMMITTEE MEETING;
5. The parent's consent is in writing; and
6. The member submits in writing to the parent and the ARD committee input into the development of the IEP prior to the meeting.

***EHBAB.SE.1.C Parental Participation in ARD meetings***

1. Parent participation in ARD committees is strongly encouraged.
2. The district will provide three notices in an effort to schedule an ARD meeting. The district will keep records of these contact efforts and the results of those efforts.
3. The district will attempt to contact the parent via phone, if the previous notification efforts were unsuccessful.
4. After these efforts, the district may hold the meeting on the date/time indicated in the previous notices.
5. The parent will be given opportunities to request a different meeting time/date that can be mutually agreeable.
6. If the parent is able to participate in person, the district and parent may agree to provide for participation of the parent via phone or via other allowable participation modes. Participation means will be noted in minutes.
7. If after two mutually agreed upon ARD meetings were cancelled due to lack of parent attendance, a third ARD mutually agreeable meeting date will be set and held. If the parent does not attend the third date, the district will go forward with the meeting.
8. In the event that an ARD meeting must be held to comply with annual ARD timelines or other required timelines, the district will hold the scheduled ARD meeting, then contact

the parent to review the ARD contents and offer to hold an additional ARD meeting to discuss and review the student's program.

### *EHBAB.SE.2 Extended School Year*

1. Extended year services (ESY) are defined as individualized instructional programs beyond the regular school year for eligible student with disabilities who are enrolled in a school district's special education program.
  - a) The need for ESY must be determined on an individual student basis by the ARD Committee.
  - b) The need for ESY must be documented from formal and/or informal evaluations provided by the district or the parents. The documentation shall demonstrate that in one or more critical areas addressed in the current IEP objectives, the student has exhibited, or reasonably may be expected to exhibit severe or substantial regression that cannot be recouped within a reasonable time period. Severe or substantial regression shall mean that the student has been, or will be unable to maintain one or more acquired critical skills because of the absence of ESY.
  - c) The reasonable time period for recoupment of acquired critical skills shall be determined on the basis of needs identified in each student's IEP. If the loss of acquired critical skills would be particularly severe or substantial, or if such loss results, or reasonably may be expected to result, in immediate physical harm to the student or to others, ESY may be justified without consideration of the time period for recoupment of such skills. In any case, the time period for recoupment shall not exceed eight weeks.
  - d) A skill is critical when the loss of that skill results, or is reasonably expected to result, in any of the following unplanned occurrences during the first eight weeks of the next regular school year:
    - i) placement in a more restrictive instructional arrangement;

- ii) 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;
  - iii) loss of access to community based independent living skills instruction or an independent living environment provided by non-educational sources as a result of regression in skills; or
  - iv) Loss of access to on-the-job training or productive employment as a result of regression in skills.
- e) If the district does not propose ESY for discussion at the annual review of a student's IEP, the parent may request that the ARD Committee discuss ESY.
  - f) If a student for whom ESY was considered and rejected loses critical skills because of the decision not to provide ESY, and if those skills are not regained after the reasonable time period for recoupment, the ARD Committee shall reconsider the current IEP if the student's loss of critical skills interferes with implementation of the IEP.
  - g) For students enrolling in a district during the school year, information from the prior school district as well as information collected during the current year may be used to determine the need for ESY.
  - h) The provision of ESY is limited to the educational needs of the student and shall 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 student's IEP. No student shall be denied ESY because that student receives care and treatment services under the auspices of other agencies.
  - i) Districts are not eligible for reimbursement for ESY provided to students for reasons other than those set forth in this section.
  - j) Personnel responsibilities for ESY:
    - i) The special education teacher/diagnostician will notify parent of the consideration of ESY at the annual ARD.

- ii) The special education service provider/diagnostician will provide formal or informal documentation of the need for ESY including expected recoupment data.
- iii) At the annual ARD, the special education service provider/diagnostician will describe the critical areas, if any, in the current IEP objectives which may be expected to show severe or substantial regression and recoupment problem unless ESY is provided.
- iv) The ARD Committee members will consider the consequences listed below if ESY is not provided:
  - a) placement in a more restrictive instructional arrangement
  - b) 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
  - c) loss of access to community-based independent living skills instruction, or independent living environment provided by non-educational sources as a result of regression in skills
  - d) loss of access to on-the-job training or productive employment as a result of regression in skills
  - e) none of the above
- v) The ARD Committee will determine the need for ESY.
- vi) The ARD Committee will develop a revised IEP for ESY which includes a daily schedule.
- vii) The ARD Committee will determine the location, instructional option, and frequency and amount of time necessary for the ESY services.
- viii) Comanche Special Services SSA, staff will measure informally whether ESY has been considered and assigned consistently and properly; steps will be taken to address problems if found.

### *EHBAB.SE.3 Assistive Technology*

#### *EHBAB.SE.3.A Assistive Technology Device*

As used in this part, “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 the functional capabilities of children with disabilities.

#### *EHBAB.SE.3.B Assistive Technology Service*

As used in this part, “assistive technology service” means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. The term includes-

1. The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child’s customary environment;
2. Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;
3. Selecting, designing, fitting, customizing, adapting, applying, retaining, repairing, or replacing assistive technology devices;
4. As clarified by IDEA 2004 this does not include devices that are surgically implanted into a child, or the adjustments necessary to those types of devices.
5. Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
6. Training or technical assistance for a child with a disability or, if appropriate, that child’s family; and
7. Training or technical assistance for professionals (including individuals providing education or rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of children with disabilities.

### *EHBAB.SE.3.C Assistive Technology Devices And Services*

1. Assistive technology devices and services are used to adapt conditions to improve the student's functioning when needed to implement the student's individual educational plan.
2. The admission, review, and dismissal committee shall review recommendations for assistive technology devices and services from the comprehensive assessment report and include in the individual educational plan devices and services determined to be educationally necessary.
3. Assistive technology devices and services assigned in the individual educational plan do not replace necessary medical treatment or individually fitted or prescribed prosthetic or corrective devices such as hearing aids and glasses.

### *EHBAB.SE.3.D ARD / IEP Responsibilities*

1. The ARD will consider assistive technology data presented by assessment personnel.
2. The ARD /IEP committee will determine if assistive technology devices / services are needed for the student's appropriate education, related services, or supplementary aids and services.
3. When appropriate, annual goals and short term objectives relating to assistive technology will be developed.
4. When appropriate, the ARD Committee will determine if devices / services are identified as an accommodation/modification, related service, or supplementary aids and services.
5. Assistive Technology needs will be considered at least annually.
6. The ARD Committee may refer a student for a comprehensive assistive technology assessment.

### *EHBAB.SE.3.E Implementation*

1. The appropriate instructional personnel will carry out the goals and objectives as written in the IEP.
2. Instructional personnel will assure that devices / services are utilized in all appropriate settings as prescribed by the ARD / IEP.
3. Teachers should seek assistance when a device is malfunctioning.

### *EHBAB.SE.3.F Consent to Transfer Assistive Technology Devices (see Region 18 Legal Framework for guidance.)*

### *EHBAB.SE.3.G Informal Support of Student Needs*

There will be times when the school staff, in conjunction with the special education staff, determines that technology, equipment, or materials might support the needs of an individual student or set of students. In the instance that this occurs, consideration of these issues shall be discussed with the Director of Special Education. Decisions may be made to provide for these needs without initiating the formal review of an ARD committee. State and Federal special education funds and general education funds may be used to support this type of need. In any instance, an individual student and his/her parent always retain the right to request an evaluation for assistive technology, and nothing in this informal support process abrogates that right.

### *EHBAB.SE.4 Transfer Of Rights*

- At least one year before a student reaches 18 years of age, inform the student that, unless the student's parent or other individual has been granted guardianship of the student under the Probate Code, Chapter XIII, Guardianship:

- The adult student will have the same right to make educational decisions as a student without a disability.
- The parental rights once accorded to the parent under the IDEA will transfer to the student upon reaching age 18, other than the right to receive any notice required under IDEA, Part B.
- Any notice required under the IDEA, Part B will be provided to both the parent and **adult** student, **even if** the student is incarcerated in an adult or juvenile, state or local correctional institution.
- At the time the student reaches the age of 18, unless the student's parent or other individual has been granted guardianship of the student under the Probate Code, Chapter XIII, Guardianship:
  - Inform parent and student that parental rights have transferred to the student.
  - Inform parent and student that the adult student has the same right to make educational decisions as a student without a disability.
  - Inform parent and student that the parental rights once accorded to the parent under the IDEA have transferred to the adult student
  - Inform parent and student that any notice required under the IDEA will be provided to both the parent and adult student,
  - Provide contact information for the parties to use in obtaining additional information.
  - A notice under IDEA, Part B, that is required to be given to an adult student and parent does not create a right for the parent to consent to or participate in the proposal or refusal to which the notice relates. For example, a notice of an ARD committee meeting does not constitute invitation to, or create a right for, the parent to attend the meeting. However, the adult student or the school district may invite individuals who have knowledge or special expertise regarding the student, including the parent.
  - Nothing prohibits a valid power of attorney from being executed by an individual who holds rights under IDEA, Part B.



- 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, except that the school district shall provide any notice required by IDEA, Part B to both the student and the parents. All other rights accorded to parents under IDEA, Part B transfer to the student

### *EHBAB.SE.5 Graduation Of Students With Disabilities*

#### *EHBAB.SE.5.A Graduation Requirements*

The secondary program of a student receiving special education services shall terminate either with graduation or when the student no longer meets the age requirement for eligibility in the Texas Education Code. A student receiving special education services who is younger than 22 years of age on September 1 of a scholastic year shall be eligible for services through the end of that scholastic year or until graduation, whichever comes first.

1. Graduation constitutes a release from services and is a change in placement. A student may be graduated according to the provisions specified in either paragraph (2), (3), or (6) of this subsection.
2. A student receiving special education services may graduate upon satisfactorily completing the required standards and credit requirements for graduation applicable to students in regular education, including 1) satisfactory performance (Recommended or Distinguished Plan) or 2) participation (Minimum Plan) on the required state assessment instruments.
3. A student receiving special education services may also graduate upon the admission, review, and dismissal (ARD) committee determining that the student has completed requirements specified in the individual educational plan (IEP), including required standards and credit requirements, which have resulted in one of the following:
  - (a) full-time employment, based on the student's abilities and local employment opportunities, in addition to sufficient self-help skills to enable the student to maintain the employment without direct and ongoing educational support of the local school district;

- (b) demonstrated mastery of specific employability skills and self-help skills which do not require direct ongoing educational support of the local school district; or
  - (c) Access to services which are not within the legal responsibility of public education, or employment or educational options for which the student has been prepared by the academic program.
4. When considering graduation, the ARD committee shall, when appropriate, seek in writing and consider written recommendations from appropriate adult service agencies and the views of the parent and, when appropriate, the student, which is included in the Summary of Performance.
  5. Employability and self-help skills referenced under paragraph (3) of this subsection are those skills directly related to the preparation of students for employment, including general skills necessary to obtain or retain employment.
  6. A student receiving special education services may also graduate upon the ARD committee determining that the student no longer meets age eligibility requirements and has completed the requirements specified in the IEP.
  7. For students who graduate according to paragraph (3) of this subsection, the ARD committee shall determine whether educational services will be resumed upon the request of the student or parent, as appropriate, so long as the student meets the age eligibility requirement.

#### ***EHBAB.SE.5.B Graduation ARDS***

A graduation ARD is an ARD for a high school student in which the ARD committee will be planning for the graduation of the high school student and his/her exit from the high school setting.

Graduation ARD's will be held the semester the student plans to graduate.

### *EHBAB.SE.5.C Notice*

A graduation ARD is discussing a change in placement. The ARD notice should contain information which tells the parent that the ARD committee will be considering:

- 1) Graduation,
- 2) Change in placement, and
- 3) Exit from special education services.

(Federal Regulation 300.122 (a) (3) (iii) clearly identifies that graduation is a change in placement.)

According to federal regulation 300.503 (b) (1-7), a graduation ARD must notice the following items. The district will notice as shown above and cover all of these issues in ARD meeting.

- 1) Notice of graduation and exit from services should be given in the native language.
  - a. *The graduation with transition supplement gives this notice.*
- 2) Include a description of the proposed graduation.
  - a. *The graduation with transition supplement gives this notice, as does the body of the ARD.*
- 3) An explanation of the reason why the district proposes to take this action.
  - a. *The minutes of the ARD should reflect the reasons that support that the student is ready to graduate. Also, the parent and teacher input of competencies often discusses the student's preparedness to graduate.*
- 4) Any options that the district considered and the reasons why those options were rejected.
  - a. *The Prior Written Notice will contain this information. (Two possible options are: 1) stay in school one additional year, and 2) transfer to another educational institution.)*
- 5) A description of each evaluation procedure, test, record, or report the district used as a basis for the proposal.

- a. *This information would be contained on page 1 in the section under assessments considered.*
  - b. *This information will be further supplemented by the REED document.*
- 6) Other factors relevant to the proposal.
- a. *This information would be in the minutes or elsewhere in the ARD.*
- 7) Sources to contact to obtain assistance.
- a. *This information is on the ARD notice, and in the Procedural Safeguards form. District personnel often provide additional information from the adult service providers and this should be noted in the ARD.*

#### ***EHBAB.SE.5. D Students with Disabilities Participation in Graduation Ceremonies***

1. The LEA must issue a certificate of attendance to a child who receives special education services and who has completed four years of high school but has not completed the child's IEP.
2. The LEA must allow the child who receives a certificate of attendance to participate in a graduation ceremony with children receiving high school diplomas.
3. The LEA will not conduct an evaluation for this student.
4. The student may only participate in one graduation ceremony.
5. The child who receives a certificate of attendance is not prevented from meeting graduation requirements and receiving a diploma as long as the child continues to be age eligible for special education services.

#### ***EHBAB.SE.5.E REED***

Does the ARD committee have to do a REED in order to meet the requirement that the ARD committee consider evaluations?

Part (1) and (2) graduates *NO*

According to Federal Regulations 300.534 (c) (2) and state commissioners rules, a district does not have to do an evaluation, i.e. REED, in order to exit a student from special education at graduation with a regular high school diploma, or if the child ages out. If a special education student meets these requirements, then a REED is not required.

Part (3) graduates *YES*

The commissioner's rules state that a student who is going to graduate under section C below must receive an evaluation and have it considered by the ARD committee before the student graduates.

Special Education students in Texas graduate under 3 sections of commissioner's rules. These rules are:

89.1070 (b)(1)&(2) Regular High School Diploma

No REED or evaluation necessary

89.1070 (b)(3) Mastery of IEP and Employability skills

REED or evaluation ARE NECESSARY

89.1070 (d)(4) Age Out

No REED or evaluation necessary

### ***EHBAB.SE.5.F Graduation Evaluation Procedures***

Given that you have a student who is expected to graduate under part (b) (3) in the next school year (generally 11<sup>th</sup> graders) the ARD committee will conduct a REED in order to consider the necessary assessment to have available for the annual/graduation ARD for the 12<sup>th</sup> grade student.

At the 12<sup>th</sup> grade annual/graduation ARD, the ARD committee will review the FIE presented based on the REED and consider that information as it makes its decisions with respect to the student's readiness for graduation.

While this is our general procedure, it is also possible to conduct a REED as a part of the 12<sup>th</sup> grade student's ARD. If the committee accepted the current testing and additional information as presented, then the committee could accept the REED as the FIE, and make their decisions with respect to the student's proposed graduation using that evaluative information.

#### ***EHBAB.SE.6 Behavior Improvement Plan***

The district has a Student Code of Conduct. The IEP for each student with a disability addresses the student's specialized needs and the appropriate behavior management techniques to be used with the student, when the child's behavior impedes the child's learning or that of others. All students with disabilities are subject to the district's Student Code of Conduct.

When a Behavior Intervention Plan has been developed by an ARD, district personnel shall be responsible for disseminating copies of the BIP to the principal and to each of the student's teachers. A Behavior Intervention Plan supplements the district's Student Code of Conduct.

#### ***EHBAB.SE.7 Participation In Regular Education Programs (LRE ISSUES)***

- \* Yearly, the Director of Special Education, or Designee, will review the PEIMS data to determine the percentage of students with disabilities receiving their education with regular students.
- \* The Director, or Designee, will present the information to superintendent/principals to aid in determining methods for increasing participation of students with disabilities with their peers in regular education classes.

- \* Upon request, the Director or Designee will provide training activities for all teachers, administrators, and/or private school personnel which will facilitate the inclusion of students with disabilities into regular education programs.
- \* The Director of Special Education and/or Designee will monitor special classes, separate campuses and/or other instructional arrangements that are removed from regular educational classes to determine what special supplementary aids and/or other services could be provided to increase participation of students in regular classes.
- \* The Director of Special Education and/or Designee will provide technical assistance to school personnel in creating a variety of alternative instruction arrangements and/or related services that will accommodate the educational needs as identified by the student's assessment reports or ARD committee.
- \* The Director of Special Education and/or Designee will review a predetermined number of student eligibility folders to determine compliance in educational placement of individuals with disabilities. Review will insure that:
  - \* placement was determined annually,
  - \* placement was based on the IEP data,
  - \* educational placement is on the student's home school campus unless the IEP requires some other arrangement,
  - \* instructional arrangement is in the least restrictive environment (LRE),
  - \* consideration was given to any potential harmful effects,
  - \* quality of instruction and/or services is appropriate based on instructional arrangement, and
  - \* participation in nonacademic, extracurricular services and activities with non-disabled individuals was considered.
- \* The Director of Special Education and/or Designee will assist in the collection of required data through the Public Education Information Management System (PEIMS). Student data will be analyzed for

determining local, state, and/or federal reports at any time. The data will assist in determining educational program needs, personnel needs, student needs, alternative placement / instructional needs, etc.

### *EHBAB.SE.8 Individualized Education Programs (IEP)*

#### *EHBAB.SE.8.A ARD Agenda*

- \* The Director of Special Education and/or Designee will have a written Admission, Review, and Dismissal (ARD) agenda for school personnel to follow to ensure compliance in addressing all areas or functions required by State/Federal law.
- \* The process will be reviewed yearly and updated if necessary.
- \* Yearly, designated staff will conduct training sessions to update all school personnel in the ARD process including any changes of the forms to be used to record required data.
- \* The IEP contains a statement of the related service(s), if any, to be provided to the student.

#### *EHBAB.SE.8.B Related Services*

- \* The need for related services is considered for each student with disabilities.
- \* The correlation between the need for the related service and the educational benefit is established.
- \* Related services are provided in a variety of service delivery options as determined by a multidisciplinary team.
- \* Related services are integrated into the curriculum to promote learning and to generalize skills.
- \* Related services are provided for the time specified in the IEP in a collaborative team approach.



\* Gaps in the amount of time specified in the IEP in the provision of related services or speech therapy by the service personnel are to be made up in the following order as applicable to the related services by:

1. Utilizing any available time during regularly scheduled days in that district (for SLPs not lunch or duty free planning period. Ex. testing time).
  2. Utilizing Stamford office days.
  3. Utilizing speech substitutes.
  4. Saturday or summer delivery.
- A record of gaps in services and made up services by the related service and speech therapy personnel is to be turned into the special education director at the end of the school year.
  - A doctor's prescription will be secured for all related services for which provider licensure rules require, for example OT and PT.

#### ***EHBAB.SE.8.C Frequency and Duration: Deciding, Documenting, Providing and Monitoring***

1. A student must be eligible for special education for some reason other than the need for related services. A student may not be found eligible for special education based solely on the need for a related service(s).
2. It is the duty of the ARD committee, in consultation with and based on the recommendation of the service provider, to determine the frequency and duration of the related services to be provided to a student. It is important to focus on the child's needs and the impact of being removed from the regular schedule when making this determination.
3. The Texas Education Agency has provided guidance to school districts with respect to how to properly write the frequency and duration for individual students. While the written guidance has not changed over the years, TEA's interpretation of that guidance has varied. CSSSSA seeks to:
  - (1) provide for the needs of each student based on the decisions of the ARDC as a group,
  - (2) document those services in a way that is clear to both the parent and the school,
  - (3) document those services in a way that meets the guidance provided by TEA, and
  - (4) document those services in such a way as not to set the school up for failure with respect to the provision of services.
4. The Texas Education Agency ruled during the Winter of 2011, that if a school closes for an emergency, i.e. winter weather, fire, or disaster, that the related services and speech that are missed during that closure do not have to be made up. (See Appendix 1 for copy of email.)

5. At each ARD committee meeting in which an eligible student is assigned related services or speech the ARDC will review, discuss and reach agreement on the operational procedures for providing and counting sessions with respect to related services and speech. This agreement is something the ARDC must address, and while a draft is brought to the meeting, it is the ARDC which determines the specifics contained in the agreement.

6. Because each ARDC may make adjustments to the agreement, and because the district may elect to adjust the language of the draft agreement over time, the exact language in any ARDC document may not be the same. However, an example of this language is contained below:

The following information relates to the provision of speech therapy and related services, hereafter referred to as services, which are scheduled to be received by this student. This information was discussed and agreed to by the ARD committee.

If a student is absent from school on a day that services were scheduled to be provided at the discretion of the student (or his/her family) then the services will be counted as offered and provided. Those services will not be made up. However, if the student was unable to attend services because the school had the student engaged in any type of school activity which prevented the child from attending his/her services, then the session will be made up.

In deciding the quantity of related services or speech therapy that this student needs in order to benefit from a Free Appropriate Public Education, this ARD committee has started with the primary consideration of the student's strengths, weaknesses, and capacity to make progress over time. After considering these issues, the ARD committee is expressing services in a way which seeks to meet TEA guidance and interpretation.

This student's services have been scheduled based on a schedule that shows services to be provided a specific number of times per week(s). The following factors affect this:

- There are weeks on the school calendar which are not full 5 day weeks. To some extent, this causes changes to the therapy schedule.
- There are weeks that therapists are required to attend ARD meetings, staff development activities, and other professional obligations which affect the provision of services.
- There are times that the therapist is absent from school for personal/family illness or other employee leave reasons which affect the provision of services.

The ARD committee agrees to the following:

- As long as in any semester the student receives 85% of the sessions that have been

scheduled by the ARD committee, this ARD committee agrees that the school will have complied with providing those services.

- A semester will be counted as having 18 instructional weeks, even if there are short weeks in the semester.
- If in any semester, the school is not on track to meet the 85% standard, the school will implement extra sessions in order to make sure that the 85% standard is met. This may/will cause the student to get more sessions per week than is shown on the student's ARD document. The ARD committee agrees that this is allowable under these circumstances.
- "Extra" sessions to make sure a student gets the expected amount of sessions may occur after the session was planned to occur. If the provider determines in advance that a scheduling conflict is going to preclude a session from occurring, then the session can be provided in advance of its expected/regular date.
- If, over the course of a semester the student does not meet the 85% standard, then the sessions can be added as extra sessions to the first three weeks of the next semester and when provided will be counted as having complied.

There are also things in a student's life that can cause the student to miss therapy. As a general rule, as stated above, when a student is absent from school and as a consequence, misses therapy, the therapy session will be counted as a session offered. That session will not be made up. However, the school will track student absences from therapy. If over the course of any semester, the student has missed 20% of their therapy due to personal absences, then the district will communicate with the parent and determine, in conjunction with the parent, if there needs to be an ARD meeting to make adjustments to the student's program.

7. Services will be scheduled based on the student's needs. However, once that need has been established by the ARD committee, the services will be written using the following formats, which are compliant with TEA guidance:

- (1) 1 time per week
- (2) X times per week (X can be any number)
- (3) X times per two weeks (X can be any ODD number)
- (4) 1 time per (any time frame longer than two weeks but not more than one year)

8. Issues related to implementation of services following this type of plan:

(1) In the last week of school, students are often involved in a variety of exciting year end activities. Related services and speech will continue to be offered during the last week of school. However, if a student is involved in an activity of this type, the lack of that session being provided will not, by itself or combined with other issues, constitute failure to comply with provision of services.

(2) Although the first week of school is very difficult to navigate with a full set of sessions offered, any lack of sessions in that week would be covered by the 85% agreement. This is also true of other weeks in the school year that can be full activities and conflicts, except the last week of school which is described above.

(3) There are weeks in the school year that are tied up extensively with State-Wide Assessments, STAAR. The district will continue to make every effort to provide services during those weeks, but students are required by the State of Texas to participate in these testing events, which can and do take major portions of days, and sometimes of a school week. If a student is involved in State-Wide Assessments and unable to participate in their session, the lack of that session being provided will not, by itself or combined with other issues, constitute failure to comply with provision of services.

(4) How does the annual ARD, or any other ARD meeting, impact the calculation of compliance with provision of services?

(i) First, let's consider the instance when the ARD committee determines that the student's frequency and duration of services is appropriate and decides not to change them.

(1) The tracking of services for the school year would continue with no interruption or change. The calendar in use to track services would continue to be completely accurate.

(ii) Next, let's consider the instance when an ARD committee decided to change services, by adding, subtracting, or changing frequency/duration of already provided services.

(1) If a new service is being added to the student's schedule, then it should be scheduled according to the rules in place in this section. If the ARD committee feels there are specific circumstances about the student in question which would impact those services, then the ARD committee may report in the ARD minutes information which more specifically clarifies what the services will consist of. This is generally not necessary, but can be done at the discretion of the ARD committee.

(2) When a new service is being initiated close to the end of a semester, it may be helpful to the entire ARD committee to specify what the services will consist of between the ARD meeting and the end of that semester in more specific detail. This is not required, but may be done.

(iii) Finally, let's consider the instance when an ARD committee has made the decision to end a specific related service or speech.

(1) As a part of the decision to discontinue any related service or speech, the ARDC should consider if services have been provided in compliance with the agreed ARDC decisions. If there is any need for make-up sessions, those should be scheduled to occur as soon after the ARD as possible, and before dismissal from the related service or speech takes place.

- (2) If the services have been determined by ARD to have been provided in compliance with the previous ARDC decisions, then the dismissal completes services for that student.

9. The SSA produces a series of calendars at the start of each year. These calendars establish the patterns of 1 week periods, 2 week periods, etc. Regardless of when a student's services begin with respect to these calendars, the services provided will be counted in the same structure of weeks as defined in the district level calendar. For example: Let's assume

- (1) that a student's ARDC determined that the student needs X sessions per two week period,
- (2) that the ARDC meeting was held on October 7, 2011,
- (3) that the parent signed a waiver to allow services to begin immediately, and
- (4) that the district calendar referenced above shows the two week period to run Monday, October 3 through Friday, October 14.

(5) Then the following procedures would be followed:

- (i) The ARDC would determine how many sessions will be provided during the 2 week period which is already under way,
- (ii) In the next full 2 week period and in each one that follows, the student would receive the full amount of sessions that was agreed to by the ARDC.
- (iii) At year end there are most often truncated two week periods. Sometimes these two week periods have only a small portion of the normal 10 instructional days. Only a portion of the normal services will be provided during such a truncated period.

10. Monitoring the provision of services

(1) The district will maintain attendance records which detail the provision of related services and speech. Those records will be monitored regularly by the providers and by the district in order to assure that all students receive the services which have been determined to be appropriate for them by ARD.

(2) The following codes will be used to track attendance issues:

- (i) Service Provided (P)
- (ii) Service Offered, Student Absent (family choice, sick, etc.) (P)
- (iii) Service Offered, Student unavailable – school activity
- (iv) Make Up – Service Provided (P)
- (v) Make Up Service Offered, student unavailable/Absent (P)
- (vi) Compensatory Service Provided (P)
- (vii) Compensatory Service Offered – Student unavailable / Absent
- (viii) School Canceled for Emergency, Bad Weather (P)
- (ix) Session Offered, Student Unavailable, STAAR or Last week of school activities (P)

(3) In the above codes there is a (P) by the codes which are counted as a session provided.

(4) When a provider is documenting a make-up session on our attendance logs, the provider will use the proper code number and also make a specific note of the date for which this make-up session applies.

#### *EHBAB.SE.8.D General Education Teacher Input*

The Director of Special Education or Designee will inform each teacher involved with a student with special education needs that:

1. Teachers have an opportunity to provide input and request assistance regarding the implementation of the student's IEP.
2. Each student's general or special education teacher(s) has the opportunity to request further consideration of the IEP. Each request may be addressed through a formal ARD or an informal meeting. (Changes to an IEP may only be made through an ARD meeting.)
3. Each general and special education teacher will provide instruction to all students with disabilities as indicated on the current IEP (goals, objectives, modifications and adaptations).

#### *EHBAB.SE.9 Instructional Settings*

##### *EHBAB.SE.9.A Homebound*

A student with a disability may be placed by an ARD committee in the Homebound Instruction arrangement in accordance with state/federal rules and regulations on the matter. It will be decided locally which teacher will carry out the required instruction. It is the responsibility of the member school district to pay the salary of the homebound teacher.

#### *EHBAB.SE.10 ARD Procedural Issues*

##### *EHBAB.SE.10.A ARD Amendments*

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

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

#### Amendment Process

The district may use the amendment process for the following when agreed to by the student's parent or by the adult student:

1. Additions/deletions of instructional accommodations.
2. Additions/deletions of accommodations for state assessments.
3. Routine schedule changes not affecting the student's LRE.
4. Changes in related services, but not for the removal of a related service or the addition of a related service.
5. Other situations as deemed appropriate.

The district will not use the amendment process for the following:

1. Dismissal from special education.
2. Dismissal from a related service.
3. Changes that will place the student in a more restrictive environment.
4. Eligibility determinations
5. Changes of placement
6. Manifestation determination reviews.

The following steps will be used to make an amendment to the IEP:

1. District personnel wishing to amend the IEP will contact the evaluation personnel to discuss the proposed amendment and provide appropriate information and/or documentation to support the amendment.
2. If the requested change to the IEP is appropriate for the amendment process, the evaluation personnel will contact the appropriate campus administrator to obtain his/her agreement to contact the parent regarding the proposed change to the IEP.
3. The evaluation personnel, working with the district personnel who initiated the proposed change, will contact the parent either by phone or in a face-to-face meeting (this is the preferred method of the district) to explain the proposed amendment and provide the necessary information to justify the change.
4. When initial contact is made with the parent regarding the proposed change, the parent shall be informed that he/she may request that the entire ARD Committee consider the proposed change.
5. If the parent agrees to change the IEP using the amendment process, the IEP changes will be documented on the appropriate form.
6. If the changes were not made in a face-to-face meeting, the changes will only take effect when the parent returns the signed amendment form or documentation of parent agreement by phone.

7. The district will provide a Prior Written Notice form to the parent with the ARD amendment.
8. The parent will be given a copy of the IEP amendment form and shall also be informed that they may have a complete copy of the student's IEP with amendments, if they so desire.
9. The IEP amendments should be given to the appropriate personnel, once the appropriate campus administrator has signed the form.
10. The IEP amendment form will be filed in the student's eligibility folder with the current IEP that was amended.

#### Parent Initiated Amendments:

Parents may also initiate the IEP amendment process. A parent wanting to amend the student's IEP should contact the evaluation personnel to discuss the proposed change. If it is determined that the amendment is allowable under this procedure, the evaluation personnel will discuss the proposed changes with the appropriate school personnel. After those discussions, the evaluation personnel will need to obtain agreement from the appropriate campus administrator so that the amendment can be implemented.

#### *EHBAB.SE.10.B Present levels*

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

#### Preparing Present Level of Academic Achievement and Functional Performance (PLAAFP) Information for ARD Meetings:

- Professional responsible for the development of draft IEP goals/objectives is responsible for bringing PLAAFP data also.
- PLAAFP data will include:
  - Statements of strengths and needs for the student.
  - Information regarding academic achievement in the four core content areas
  - Information regarding functional performance

#### *EHBAB.SE.10.C ARD Annual Goals and Objectives*

In developing the PLAAFP and the Goals and/or Objectives, the ARD Committee must consider:

1. The strengths of the child;
2. The concerns of the parents for enhancing the education of the child;
3. The results of the initial evaluation or most recent evaluation of the child; and



4. The academic, developmental, and functional needs of the child.
5. Benchmark tests, along with other formal testing should be used to facilitate the development of an IEP.
6. Goals should be designed with expectations of mastery within one year.
7. Goals will be aligned with the general curriculum.

#### Documentation and Review

1. Formal updating of student progress on the goals and objectives in the student's official eligibility folder shall be completed by the special education teacher or related service provider at the following times:
  - a. at the end of each grading period and the beginning of the second semester
  - b. before the annual ARD meeting to enable the ARD committee to have a good understanding of the student's current status on the IEP and current progress and
2. Each teacher or related service provider will review and document the student's progress toward meeting IEP goals and/or objectives for which they have responsibility on their classroom copy of the goals and objectives before sending out progress reports and/or report cards. If a student has not received passing grades on a progress report or report card and the parent or teacher has reason to believe that the failures necessitate a review of the IEP, the campus evaluation personnel will be contacted to schedule an ARD meeting.
3. Teachers should know what accommodations and modifications they are implementing and should document their efforts (e.g., lesson plans, accommodation sheets, samples of modified tests, or other performance evaluation measures.)
4. Teachers may make minor instructional accommodations without an ARD committee meeting if such accommodations are helpful and consistent with the ARD committee's established goals and objectives.
5. Teachers in general education are required to accommodate and/or modify the general education program as determined by the ARD committee.

#### Evaluation personnel or Speech Therapist's Role

Prior to a student's ARD meeting, the campus evaluation personnel or speech therapist (if a evaluation personnel is not involved) will provide each teacher (general and/or special education) with a form on which the teacher may:

1. list and/or document the present competencies and progress of the student
2. list and/or document any accommodations currently being provided to the student

3. share any information which they feel will assist an ARD committee in making ARD decisions.

The information contained on the form discussed above will be reviewed and considered by the ARD committee.

The evaluation personnel/speech therapist at each campus shall also ensure that special education teacher designated to a student with disabilities:

1. receives relevant sections of the student's current IEP
2. be informed of specific responsibilities related to implementing the IEP, such as
  - a. goals
  - b. benchmarks
  - c. objectives
  - d. behavior plans
  - e. needed accommodations / adaptations
  - f. needed modifications
  - g. or other educational, behavioral, or health supports needed for the student

The above information will be:

1. sent to teachers before services begin,
2. documented as to when the teacher received the information (the campus evaluation personnel/speech therapist will keep this documentation),
3. kept by each teacher with a cover sheet reminder of the need for confidentiality,
4. only shared with others who have a need to know (substitute teachers and/or teacher assistants).

The special education teacher will ensure that all other teachers serving the student with disabilities:

1. receive relevant sections of the student's current IEP
2. are informed of specific responsibilities related to implementing the IEP, such as
  - a. goals
  - b. benchmarks
  - c. objectives
  - d. behavior plans
  - e. needed accommodations / adaptations
  - f. needed modifications
  - g. or other educational, behavioral, or health supports needed for the student
3. signs documentation of receipt of the current IEP accommodations/modifications.

### *EHBAB.SE.10.D Reaching Consensus*

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 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;
- 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, the 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 which may assist in enabling the ARD committee to reach mutual agreement.

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

- Provide the parent with prior written notice, including a copy of Notice of Procedural Safeguards; and
- Implement the IEP which it has determined to be appropriate for the child.

### *EHBAB.SE.10.E Rule of Construction*

For ARD committee membership information reference [EHBAB.SE.1 ARD Committee Membership](#)

### *EHBAB.SE.11 ARD - Special Factors*

#### *EHBAB.SE.11.A Assistive Technology*

The ARD committee must consider whether the child needs assistive technology devices. 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 a child with a disability. The term 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 a child with a disability in the selection, acquisition, or use of an assistive technology device.

The term includes:

- The evaluation of the needs of such child, including a functional evaluation of the child in the child's customary environment;
- Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices for the child;
- Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
- Coordinating and using other therapies, interventions, or services with assistive technology devices, 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.

#### Assistive Technology Evaluation Request Procedure

1. A referral is a request for evaluation. As such, it will be a part of a full evaluation process beginning with an AT screening instrument. Depending on the data gathered it may trigger a special request by the individual ARD committee for a specific AT review/evaluation.
2. ARD committees may, as a part of the REED process, call for an AT evaluation.
3. Referral is made to AT Coordinator when a student needs AT to improve, remediate or compensate for deficits in educational performance.
4. ARD Coordinator uses a variety of observation checklists and interviews to determine needs of the student and consults with any outside professional resources in order to meet the student's needs.
5. Report is written with findings and recommendations for the following areas: vision and hearing, communication, seating and positioning, mobility, self-help, reading and writing.
6. AT Coordinator may attend the ARD meeting to present the findings of the evaluations.

#### *EHBAB.SE.11.B Autism*

If a student has autism, the strategies below must be considered by the ARD committee, based on peer reviewed researched-based educational programming practices to the extent practicable.

When needed, the ARD committee must address the strategies in the IEP.

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

The strategies to be addressed are as follows:

1. Social skills supports and strategies based on social skills assessment/curriculum and provided across settings:
  - a. For example, trained peer facilitators (e.g., circle of friends), video modeling, social stories, and role playing;
2. Positive behavior support strategies based on relevant information:
  - a. For example, antecedent manipulation, replacement behaviors, reinforcement strategies, and data-based decisions; and a behavior intervention plan (BIP) developed from a functional behavioral assessment (FBA) that uses current data related to target behaviors and addresses behavioral programming across home, school, and community based settings;
3. In-home and community-based training or viable alternatives that assist the child with acquisition of social/behavioral skills:
  - a. For example, strategies that facilitate maintenance and generalization of such skills from home to school, school to home, home to community, and school to community;
4. 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:
  - a. As determined by, for example, adaptive behavior evaluation results; behavioral accommodation needs across settings; and transitions within the school day;
5. Daily schedules reflecting minimal unstructured time and active engagement in learning activities:
  - a. For example, lunch, snack, and recess periods that provide flexibility within routines;
  - b. adapt to individual skill levels; and assist with schedule changes, such as changes involving substitute teachers and pep rallies;
6. Communication interventions, including language forms and functions that enhance effective communication across settings:
  - a. For example, augmentative, incidental, and naturalistic teaching;
7. Extended education programming:
  - a. 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;
8. Teaching strategies based on peer reviewed research-based practices for children with autism spectrum disorder:

- a. For example, those associated with discrete-trial training; visual supports, applied behavior analysis, structured learning, augmentative communication, or social skills training;
9. Beginning at any age, consistent with transition services, futures planning for integrated living, work, community, and educational environments that considers skills necessary to function in current and post-secondary environments;
10. Parent/family training and support, provided by qualified personnel with experience in autism spectrum disorders:
- a. That for example, provides a family with skills necessary for a child to succeed in the home/community setting;
  - b. That for example, includes information regarding resources;
  - c. 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;
  - d. That for example, facilitates parental carryover of in-home training;
  - e. 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; and
11. Professional educator/staff support:
- a. For example, training provided to personnel who work with the child to assure the correct implementation of techniques and strategies described in the IEP.

### *EHBAB.SE.11.C Blind or Visually Impaired*

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 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; or
- Determine that instruction in Braille or the use of Braille is not appropriate;

The ARD committee shall provide a detailed description of the arrangements made to provide the child with:

1. orientation and mobility training,
2. instruction in Braille or use of large print,

3. other training to compensate for serious visual loss, access to special media and special tools, appliances, aids, or devices commonly used by individuals with serious visual impairments;

The ARDC will:

1. Set forth the plans and arrangements made for contacts with and continuing services to the child beyond regular school hours to ensure the child learns the skills and receives the training specified above;
2. For a child who is functionally blind, specify the appropriate learning medium based on the assessment;
3. Indicate that the child has been provided a detailed explanation of the various service resources available in the community and throughout the State; and
4. Provide each parent with the State-adopted form that contains written information about programs offered by state institutions.

Each person assisting in the development of the IEP for a child who is functionally blind must receive information describing the benefits of Braille instruction.

Before placing a child with a visual impairment in a classroom setting, or within a reasonable period of time after placement (as required for the child to succeed in classroom setting and derive lasting, practical benefits from education in the district), the ARD committee must:

- Provide training in compensatory skills;
- Provide training in communicative skills;
- Provide training in orientation and mobility;
- Provide training in social adjustment; and
- Provide vocational or career counseling.

### *EHBAB.SE.11.D Deaf or Hard of Hearing*

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

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

### *EHBAB.SE.11.E Communication*

The ARD committee will consider communication needs at each ARD meeting.

### *EHBAB.SE.11.F Students also identified as Limited English Proficient*

For identification of a child with a disability and before entry into a bilingual education or ESL program, the ARD committee in conjunction with the LPAC must:

- Review all pertinent information including the results of the appropriate assessment instrument identified in accordance with State and district-wide guidelines for indicating a student as LEP;
- Designate the language proficiency level of the child and determine whether the child has met the score criteria determined in accordance with State and district guidelines for identification of the child as LEP;
- Designate the level of academic achievement of the child and determine whether the child has met that level as determined by State and district guidelines for identification of the child as LEP;
- Designate, subject to parental approval, the initial instructional placement of the LEP child who is a child with a disability in a bilingual or ESL program; and
- Facilitate the participation of the LEP child who is a child with a disability in other special programs for which the child is eligible and provided by the district.

In the case of a child identified as LEP, the ARD committee must:

- Consider the language needs of the child as such needs relate to the child's IEP.
- The child may be exited from a bilingual education or ESL program at the end of the school year in which the child received special language services from a bilingual education or ESL program.
- To exit a child with a disability from a bilingual education or ESL program, the ARD committee in conjunction with the LPAC must:
- Review the results of the appropriate assessment instrument identified in accordance with State and district guidelines from a bilingual or ESL program; and
- Determine that the child will be able to participate equally in an all-English instructional program that does not provide special language services from the bilingual or ESL program.
- Determine that the child has met the performance standard established in accordance with STATE AND DISTRICTWIDE ASSESSMENTS for exit of the child from a bilingual or ESL program;



## *EHBAB.SE.12. Secondary Transition*

- 1) Beginning not later than the first individualized education program (IEP) to be in effect when the child turns 14, or younger if determined appropriate by the admission, review and dismissal (ARD) committee, and updated annually thereafter, the ARD committee must address transition services as part of the IEP.
- 2) If the child does not attend the ARD COMMITTEE MEETING where transition services are discussed (as set forth in the ARD COMMITTEE MEMBERSHIP framework), the local educational agency (LEA) will do one or more of the following:
  - a. Conduct a student completed questionnaire,
  - b. Conduct a student interview,
  - c. Conduct a student interest inventory,
  - d. Conduct a parent interview,
  - e. Compile a student portfolio of student interest,
  - f. Other staff directed interest activities,
  - g. Other gathering of student interest, preferences, and abilities.
- 3) The ARD committee must develop appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to:
  - a. Training
  - b. Employment
  - c. Education, and
  - d. Where appropriate, independent living skills.
- 4) For age appropriate transition assessments, refer to 2 a-g above.
- 5) The ARD committee must determine transition services (including courses of study) needed to assist the child in reaching those postsecondary goals.
- 6) The ARD committee will assure that the student is enrolled in the appropriate course of study to achieve the graduation plan selected by the student and the ARD committee.

- 7) At any point that a student enters the minimum plan, the district will comply with state rules and obtain a signed form (Minimum High School Program Opt-In Agreement). A copy of this form will be maintained in the student's eligibility folder.
- 8) If a participating agency fails to provide services agreed to in the ARD committee meeting, the district will reconvene the ARD committee to address this issue.

### *EHBAC.SE.1 Private Schools*

#### *EHBAC.SE.1.A Private Schools General*

The District will provide Yearly, each \*private school with information on Child Find activities, referral for special education services, State policy on dual enrollment for obtaining services, and participation in teacher in-service. Designated staff members will be available to provide technical assistance in determining educational needs and referral to appropriate state, and local regional resources and service agencies (i.e., MHMR, C.R.C.G. Committees, etc.).

\*The term "private schools" includes religious schools and home schools.

1. Each LEA shall locate, identify, and evaluate all \*private school children with disabilities, including religious-school and home school children residing in the jurisdiction of the LEA. The activities undertaken to carry out this responsibility for \*private school children with disabilities must be comparable to activities undertaken for children with disabilities in public schools.
2. Each LEA shall consult with appropriate representatives of private school, religious school, and home school children with disabilities on how to carry out the activities described in paragraph (a) of this section.

#### *EHBAC.SE.1.B Information in an Application*

1. Yearly, the Director of Special Education or Designee will contact each private school and exchange the following information for inclusion in Federal Funding Application and for program projection planning:
2. General compliance statement of available services to school students with special needs.
3. Listing of eligible students enrolled in private schools that would benefit from special education.
4. Listing of students identified as eligible to benefit from special education.
5. Referral and assessment process used to select students.
6. Identification of school personnel available to provide assistance to private school personnel and students who would benefit from special education.
7. The differences between the benefits the SSA will provide to public and private school students and the reasons for the differences.

#### *EHBAC.SE.1.C Consultation*

The District will inform the staff of the private school(s) of the development and design of the project activities covered by the application. This information will include:

1. Eligible students to receive benefits of activities.
2. How the individual students needs will be identified.
3. What services will be provided.
4. How and where the services will be provided
5. Service delivery plan
6. Evaluation method.

The District will report to private school representatives the evaluative results of services delivered to their eligible students(s).

The District will solicit input of all the private school representatives concerning services available.

With respect to the provision of services to students in private schools:

1. All state requirements concerning referral, assessment, and determination of eligibility are applicable to students placed by their parents in private schools once the students have been referred to the local school district. All state requirements concerning special education

services are applicable to students admitted under the dual enrollment rule in subsection (5) of this section.

2. When a student with a disability who has been placed by his or her parents directly in a private school or facility is referred to the local school district, the local district shall convene an ARD committee meeting to determine whether the district can offer to the student a free appropriate public education. If the district determines that it can, the district is not responsible for providing educational or related services to the student until such time as the parents choose to enroll the child in the public school full time or request services under the dual enrollment rule in subsection (5) of this section.
3. School districts shall use their established procedures and forms for the referral of students from private schools.
4. To the maximum extent possible, the district shall use referral and assessment information from the private schools' records in order to avoid unnecessary duplication of effort or services.
5. The SSA shall ensure that a representative of a \*private school attends each meeting held to develop, review and revise a service plan for the child. Moreover, if the representative cannot attend, the agency will use other methods to ensure participation by the private school, including individual or conference calls.
6. If the ARD committee determines that a private school student is eligible and in need of special education instruction or related services or both, the parent may choose to enroll the student full time in the public school. If the parent does not choose to do this, the school district shall make the special education services available only on the basis of dual enrollment. (Dual enrollment is only available to students ages 3-5.) Based on the services and amount of time needed to provide those services as set forth in each student's service plan, when parents choose to enroll a child under the dual enrollment provision, the school district shall use one of the following arrangements for dual enrollment:
  - (a) enroll the student for at least four consecutive hours per day and count the student eligible for full state ADA, for contact hours based on the instructional arrangement in which the student is served, and for full federal funding (in the annual child count);

- (b) enroll the student for at least two consecutive hours per day and count the student eligible for one-half state ADA, for contact hours based on the instructional arrangement in which the student is served, and for full federal funding; or
  - (c) enroll the student for any amount of time needed less than two hours per day and count the student eligible and for full federal funding, but not for state ADA and for contact hours.
7. The SSA will spend on providing special education and related services to \*private school children with disabilities as specified in the federal regulations quoted below:
    - a. For children aged 3 through 21, an amount that is the same proportion of the SSA's total sub grant under section 611 (g) of the ACT as the number of private school children with disabilities aged 3 through 21 residing in its jurisdiction is to the total number of children with disabilities in its jurisdiction aged 3 through 21; and
    - b. For children aged 3 through 5, an amount that is the same proportion of the SSA's total sub grant under section 619(g) of the Act as the number of \*private school children with disabilities aged 3 through 5 residing in its jurisdiction is to the total number of children with disabilities in its jurisdiction aged 3 through 5.
    - c. Expenditures for child find activities will not be considered in determining whether the SSA has met the "proportionate funds" requirement. (See the Child Find regulation for additional requirements.)
  8. The location and procedures for delivery of the instructional or related service or both specified in the service plan shall be determined based on the requirements concerning placement in the least restrictive environment and the policies and procedures of the local district.
  9. A \*private school child with a disability has an individual right to receive some or all of the special education and related services that the child would receive if enrolled in a public school.
  10. The SSA shall ensure that a service plan is developed and implemented for each \*private school child with a disability who has been designated to receive special education and related services under this part. The SSA shall initiate and conduct meetings to develop, review, and revise a service plan for the child. A representative of the private, religious, or home school shall attend each meeting. The service plan will describe the specific

special education and related services that the SSA will provide to the child and to the extent appropriate, meet the requirements consistent with procedures governing IEPs.

11. For students served under the provision of this section, the school district shall be responsible for the employment and supervision of the personnel providing the service, providing the needed materials, and maintaining pupil accounting records. Materials and services provided shall be equivalent to those provided for students enrolled only in the public school and shall remain the property of the school district.
12. Transportation will be provided to private school students when they receive services at a site other than their private school if necessary to benefit from or participate in the offered services, such as 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. Under no circumstances will the SSA supply transportation from the child's home to the private school. The cost of the transportation may be included in calculating whether the SSA has met the "proportionate funds" requirement.

#### *EHBAC.SE.1.D Dispute Regarding Services*

Parents should follow the due process procedures regarding disagreements that apply to Child Find activities including evaluations. All other disputes are subject to the state complaint procedures.

In addition, Comanche Special Services SSA will:

1. Disseminate copies of applicable standards to each private school and facility to which a public agency has referred or placed a handicapped child; and
2. Provide an opportunity for private schools and facilities to participate in the development and revision of State standards, which apply to them.

*\*The term "private schools" includes religious schools and home schools.*

## *EHBAC.SE.1.E Private/ Home School Process For Consultation*

To ensure timely and meaningful consultation with any private school or home school the District will follow the following process:

1. Child Find
  - a) If a private school, other than home schools, opens up in one of the districts, they will be contacted by phone or by certified mail and meetings will be arranged.
  - b) Articles are published in all local papers.
  - c) Letters are mailed to each home schooled family listed on PEIMS as of snapshot date for the previous year.
  - d) The district attempts to reach each home-schooled family by phone each year.
2. Proportionate share
  - a) The E-Grants system automatically calculates the proportionate share for the SSA dependent upon the numbers entered by the district. Those funds are available by district and the student/students who qualify for services under these provisions are provided services as long as that funding lasts.
  - b) How the proportionate share is calculated for each district would be explained to any Private school or Home school administrator/parent.
  - c) If funds are insufficient, decisions as to how funds will be apportioned will be made in a cooperative effort between the private/home school and the district.
3. Consultation Process
  - a) The district would work in cooperation with any Private school / Home school in order to provide services to students.
  - b) Contact will be made with documented phoned calls, e-mail, letters, and arranged meetings.
  - c) Our consultation process will operate throughout the school year to ensure meaningful participation.
4. Provision of special education and related services

- a) The district, in consultation with the private school, will determine the range of possible services to be made available to private school students.
- b) Services would be arranged by the district through the service plan developed by the private school, the parent and the district. Decisions regarding services are developed through assessment and addressed in the service plan. Assessment will be the primary factor guiding the decisions to determine the services that will be provided to an individual child.
- c) Services could be provided at one of the schools, at the private school, or possibly at the student's home.
- d) The time services would be provided would be coordinated with the private school and the district.
- e) Services will be provided to all children who qualify based upon their individual needs, determined through assessment. Services will be provided until the proportionate share has been expended.
- f) Options for services might include OT, PT, counseling, instructional services or speech, but would not be limited to these. All services will be provided by certified or licensed district staff, or individuals that the district has contracted to provide services.

5. Written explanation regarding services

- a) If district disagreed with the Private school about the provision of services, the Private school would receive in writing an explanation of why the requested services would not be provided and what services the SSA would be willing to provide



*EHBAC.SE.1.Ex Documentation of Consultation*

Date \_\_\_\_\_

1) Child Find

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2) Proportionate Share

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3) Consultation Process

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4) Special Education / Related Services

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5) Written explanation

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Private school representative signature \_\_\_\_\_

CSS SSA representative signature \_\_\_\_\_

### *EIA.SE.1 Progress Reports / Grades*

Comanche Special Services SSA will print and mail all progress reports for special education students. Progress reports will be issued at the same time as those of regular education students. Specifically, the SSA will remind staff that every student with an IEP will receive a progress report which provides information each six weeks on the progress of that student on the IEP.

The SSA will check to assure that a progress report is updated by appropriate personnel and mailed to parent of Special Education students from each district.

### *FL.SE.1 Student Records Procedures*

#### *FL.SE.1.A Confidentiality of Student Information - Notification of Rights*

1. Parents and eligible adult students (eligible students are defined as persons 18 years of age or older who have not waived their right to represent themselves in educational decisions or who have not been determined by an appropriate court to be incompetent to make decisions) will be informed, at the time of referral to special education and annually thereafter with “Annual Notice of Confidentiality” , in their primary language of the confidentiality procedures of the Comanche Special Services SSA and of their right to file a complaint for alleged failure of the Shared Service Arrangement to comply with the procedures.
2. The Notice of Procedural Safeguards will be disseminated through the local school districts served by the Shared Service Arrangement by the provision of a copy of “Explanation of Procedural Safeguards”, or its TEA replacement, at the times required under state and federal law and at the times previously listed in this document in the section on procedural safeguards.
3. A Notice shall be posted in each Local Education Agency within the SSA of the location where copies of confidentiality policies may be obtained by parents/students.

4. Copies of the local school's policies/procedures may be obtained from the superintendent's office upon request. Copies of Comanche Special Services policies/procedures/operating guidelines may be obtained through the Comanche Special Services Office, 425 S. Texas St De Leon, TX 76444 254-893-2130 upon request.
5. The Director of Special Education will review and/or update the annual notification of confidentiality rights for parents of students with disabilities. Copies of the notice, in the parent's home language, will be distributed to parents at the initial and each annual ARD. Documentation of the distribution of the public notice will be included on the ARD form.

### *FL.SE.1.B Inspection and Review of Records*

1. Individual student records that are collected, maintained, or used by the district may be inspected and reviewed by parent/adult student during regular business hours by submitting a written request to the Director of Special Education at the Comanche Special Services SSA office, 425 S. Texas St. De Leon TX 76444. Parents may request that a representative inspect and review the records. The representative(s) should be accompanied by the parent or have a signed statement that the individual is to be allowed to review the student's folder. The statement is to be filed in the student's folder for future reference.
2. Each request must specify the name of the student and the type of record(s) to be reviewed.
3. Permission to access the records will be granted within a reasonable period of time, not to exceed forty-five (45) days from the date of the written request.
4. The staff shall comply with a request without unnecessary delay and before any meeting regarding an individual education plan (IEP) or hearing relating to the identification, evaluation, or placement of the child. The staff will place information in the student's folder of the parent's review of records before any meeting with school personnel and inform the Director of the concerns indicated by the parent.
5. Copies of records may be obtained at a cost of five cents (5¢) per page. This fee will be waived if requesting party states they are financially unable to pay.

6. All reasonable requests for explanation and interpretation of the contents of the records will be provided by contacting the Director of Special Education at 254-893-2130 for an appointment.
7. Comanche Special Services SSA will assume the natural/biological parents to have custody and therefore have access to student records unless there is evidence of a legal action awarding custody to other than natural parents.
8. Comanche Special Services SSA will permit parents/eligible students to review records of their child/self only. On records where more than one student's record appears, information pertaining to the student in question will be transferred to a separate page for review by the parent.
9. The Local Education Agency shall deny access to records when such a release of information would be:
  - a) of danger to the child's welfare or when there is no legal right on the part of the individual requesting to view the records,
  - b) of such a nature that the information concerns more than one child,
  - c) Copies of personal student treatment records created and maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional are not disclosed to anyone other than by the individuals providing the treatment. Upon request by parents/students or guardian, these records can be personally reviewed by a physician or other appropriate professionals who see the student/parent as a client.

### *FL.SE.1.C Types and Locations of Records*

At the beginning of each school year, the Director of Special Education will submit to the LEA Record Designee a list of the types and locations of all education records by titles. The information will also include the names of personnel responsible for student folder maintenance. The list will include the staff member(s) name, title, address, and office phone number. The SSA will provide the parents, upon request, a list of the types and locations of education records collected, maintained, or used by the district.

### *FL.SE.1.D Types of records*

Types of records maintained by the Comanche Special Services SSA may include the following:

1. Attendance Records
2. Test Scores
3. Grades
4. Disciplinary Records
5. Counseling Records
6. Psychological Records
7. Applications for Admission
8. Health and immunization information
9. Teacher and counselor evaluations, and
10. Reports of behavioral patterns

(Texas Education Code S. 26.004)

### *FL.SE.1.E Applicant Agency*

The applicant agency provides the parent/legal guardian on request a list of the types and locations of education records collected, maintained, or used by the applicant agency.

### *FL.SE.1.F Location of Records*

Individual student records will be located, housed, and maintained in file cabinets in designated locations at the Comanche Special Services SSA office, 425 S. Texas St. De Leon TX 76444.

### *FL.SE.1.G Confidentiality Officer*

The director of Comanche Special Services SSA office, 425 S. Texas St. De Leon TX 76444 is designated as the Confidentiality Officer responsible for the security of the student records.

### *FL.SE.1.H Accessibility to Records*

#### Individual Student Classroom Files

These files will have an access sheet in the file which will include the following information:

1. A record of the parties obtaining access.
2. The date access was given.
3. The purpose for which the party is authorized to access the records.

A current list of those who have access will be affixed in close proximity to files. The list will include the names and positions of those who may have access to personally identifiable information; all others will sign and complete the access sheets.

### *FL.SE.1.I Individual Student Eligibility Files*

A listing of the names and positions of those who may have access to personally identifiable individual student records including eligibility records or administrative records will be posted within the Comanche Special Services SSA office, 425 S. Texas St. De Leon TX 76444 and will be available upon request. Other persons eligible for access to the student files include:

1. Parent or other persons with the primary legal obligation for care, control and custody of eligible students.
2. School officials in the attending district with a legitimate educational interest. School officials with a legitimate education interest are defined as administrative, supportive and instructional personnel responsible for the development and implementation of the student's individual educational plan and/or educational program when they are working with the student; considering disciplinary or academic actions; the student's case; or an individual education plan for a student with disabilities; compiling statistical data; or investigating or evaluating programs.

3. "School officials" for the purposes of this policy, shall mean any employees, trustees, or agents of the District, of cooperatives of which the District is a member, or of facilities with which the District contracts for placement of students with disabilities. The term also includes attorneys, consultants, auditors, and independent contractors who are retained by the District, by cooperatives of which the District is a member, or by facilities with which the District contracts for placement of students with disabilities.
4. A school district in which a student has enrolled. Upon receiving a request from a school for the confidential records of a student with a disability who was previously enrolled, the Special Education Director, or Designee, shall release the requested records. A record of the information transmitted will be maintained with the student folder.
5. Authorized Texas Education Agency personnel from the Special Education Division, Special Education Funding and/ or Audit.
6. Authorized Education Service Center Staff for preparing information reports requested by state statute.
7. Other persons in emergency situations which require the needed information to protect the health or safety of the student.

When receiving a court issued subpoena, the Director of Special Education will comply with the stated instructions of confidentiality. For example, refrain from disclosure of the existence or contents of the subpoena to anyone. The Director may seek legal opinion and/or assistance from a school attorney.

A signed parent permission form is required prior to the release of any educational records to all parties except those listed above and only for the purpose stated.

The following information is considered to be directory information which does not require prior written consent of the parent or eligible student for disclosure:

- a) Student name, address and phone number
- b) Parent's name, address and phone number

The Director of Special Education, or Designee, will respond by letter to written request for information for a student's application for financial aid.

Data accessibility logs in the form of an access sheet in the student folder will be maintained by the Confidentiality officer and/or data clerk on all student records.

The access sheet will contain the signature of person(s) other than authorized Comanche Special Services personnel or authorized LEA personnel accessing the record, date, and reason for accessing the record.

### *FL.SE.1.J Amending Records*

1. Parents or eligible students have the right to contest information contained in the records maintained by Comanche Special Services SSA office.
2. Requests to amend a record must be submitted in writing to the Director of Special Education.
3. The request shall identify the portion(s) of the record the requesting party desires to be amended.
4. The Director will notify the requesting party in writing within ten working days of receipt of request and shall decide whether to amend the record as requested within a reasonable period of time.
5. If the department refuses to amend the record, the requesting party will be informed of their right to request a hearing before the Management Board of the Comanche Special Services SSA.
6. Hearing requests must be made in writing to Comanche Special Services SSA Special Education Director.
7. Hearings before the Comanche Special Services SSA Management Board will be held at the next regularly scheduled meeting of the Management Board following the receipt of a request, but not more than 45 days from receipt of the request.
8. Parents or eligible students will be notified in writing of the date, time and location of the hearing in a reasonable time prior to the hearing. They will receive a minimum of five days notice.
9. Parents or eligible students will be permitted to present evidence on behalf of their position and be represented by counsel at their expense.



10. The board will reach a decision based upon the evidence presented at the hearing and notify the parent or eligible student of the decision in writing within fifteen (15) working days of the conclusion of the hearing.
11. An official of the district who did not have a direct interest in the outcome of the hearing conducted the hearing.
12. The district's decision was based solely on the evidence presented at the hearing, and the summary of evidence and the reasons for the decision were included in the written report of the hearing.
13. If the decision of the board is to amend the record, the notice of decision will specify the portions of the record to be amended and restate the amended portions.
14. A copy of the amended record may be obtained according to the provisions under inspection and review of records.
15. All other provisions of this confidentiality procedure will be applicable to the amended record including the maintenance and disclosure of the record.
16. If the decision of the board is to refuse to amend the record because the information is not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, the notice of decision will summarize:
  - a) evidence presented, and
  - b) The reason for the decision.
17. The Management Board, upon deciding to refuse to amend the information in accordance with the request, shall inform the parent/legal guardian of the refusal, and advise the parent/legal guardian of the right to a hearing.
18. If the amended record is the result of a hearing which decided that the information is inaccurate, misleading, or otherwise in violation of the privacy or other rights of the child, a copy of the amended information will be given to the parent(s) or guardian in writing.
19. The parent or eligible student may place statement(s) in the record, clarifying the information within the record and/or setting forth their reasons for disagreeing with the decision of the Comanche Special Services SSA Management Board.
20. This/these statement(s) will be maintained and disclosed according to the same provisions as all student record information covered by this procedure.

21. Information placed in the student's record as a result of a hearing is included whenever the record is disclosed by the SSA to a third party.

### *FL.SE.1.K Storage Of Records / Destruction*

*The retention period for Special Education Records is 5 years after services cease for a student, whoever CSSSSA retains records for 7 years for compliance with Medicaid (SHARS).*

1. Original student records to be destroyed will be shredded, bagged and placed in a receptacle to be disposed of by the refuse and sanitation company seven (7) years after cessation of services.
2. In accordance with Texas State Library and Archive Commission, Local Schedule SD (13 TAC 7.125(a)(4). The Director of Special Education, or Designee will verify the records to be destroyed.
3. The Shared Service Arrangement will maintain/destroy records in accordance with the Local Records Retention Schedules filed with the Texas State Library and Archives Commission.
4. No record will be destroyed if there is an outstanding request to review and/or inspect that record.
5. Parents will be informed at the initial ARD and at each annual ARD that all special education records will be destroyed 7 years after the cessation of services.
6. The local education agency shall destroy records at the parent's request when records are no longer needed to provide the educational services to the child and if the above criteria are met.
7. The Director of Special Education, or Designee may maintain a specific record of information on students whose permanent folder has been destroyed. The information if maintained without a time limitation will be the student's name, address, phone number, grades, attendance record, classes attended, grade level completed, and year completed.

### *FL.SE.1.L Video Tapes And Recordings*

The Director/Designee will provide staff with a form for obtaining parent/guardian permission for videotaping and/or recording of student(s). Copies of the signed permission form will be located in the student's folder. This form will be used when required by state or federal rule or law.

### *FL.SE.1.M Safeguards / Training In Confidentiality Procedures*

1. The Director of Special Education, or Designee of the Shared Service Arrangement, will coordinate efforts with the District's designated Director of Special Education, or Designee to ensure the confidentiality of personally identifiable information.
2. Training and/or instruction in confidentiality procedures will be provided by the Director of Special Education or Designee/LEA personnel.
3. The Director will provide a current listing of the names and positions of employees who may have access to confidential information.

### *FL.SE.2 Records Access*

#### *FL.SE.2.A Consent for Disclosure of Records*

### *FO.SE.1 Discipline Management*

Each member district has developed a Discipline Management Plan for all students, which includes provisions for handicapped students. This plan meets all state and federal requirements regarding student discipline.

### *FOF.SE.1 Restraint, Confinement, Seclusion, Time Out*

#### *FOF.SE.1.A Time Out*

Definition – Education Code 37.0021 (b) (3)

Means a 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:

- a) that is not locked
- b) from which the student is not physically prevented from leaving

#### Use

Schools may use time-out as a behavior management technique. For general use with the entire student population it is not regulated. For use “utilized on a recurrent basis to increase or decrease a targeted behavior” it is allowable, but is regulated by commissioner’s rules 89.1053 (g).

#### Important points

1. You may not use a locked space for time out. Also, you may not use physical force or the threat of physical force to prevent a student from leaving a time-out area. If a school were to do either of these, then the school would be using confinement/seclusion which are prohibited by law 37.0021 (a) and 37.0021 (b) (2) and 37.0021 (c).
2. Training is required. Not later than April 1, 2003 general or special education personnel who implement time-out based on requirements established in a student’s IEP and or BIP must be trained in the use of time-out. Also, after April 1, 2003 those who are called on to implement time-out under these conditions must be trained on time out within 30 days of receiving the assignment.
3. Can school personnel escort a child to time-out? Laura Taylor, TEA, was very specific in her training. You cannot use physical force or the threat of physical force to get a child to time out. Doing so would be restraint, and you are not allowed to use restraint except in emergencies. Surely a school would not be taking a child to time out in response to an emergency situation.

## *FOF.SE.1.B Restraint*

Definition – Commissioner’s rules 89.1053 (b) (2), State Law 37.0021 (b) (1)

“Restraint means the use of physical force or a mechanical device to restrict the free movement of all or a portion of the student’s body.”

Related Definitions - Commissioner’s rules 89.1053 (b) (1)

### *Emergency*

“Emergency means a situation in which a student’s behavior poses a threat of:

- a) imminent serious physical harm to the student or others; or
- b) imminent, serious property destruction”

Use

State law requires that the Commissioner of Education provide rules for the use of restraint by school district personnel, volunteers, or contractor.

Commissioner’s rules 89.1053 (c) details that restraint may be used under only a very specific set of conditions. The rule also details four types of restraint, which are not restraint under the rule 89.1053 (f).

Restraint may be used in an emergency, as defined in 89.1053 (b) subject to conditions detailed in section (c), (d), and (e).

### (c) Limits to Use

1. limited to reasonable force necessary to address the emergency
2. discontinued at the point the emergency no longer exists
3. implemented in such a way to protect the health and safety of the student and others
4. restraint shall not deprive the student of basic human necessities

### (d) Training Requirements

1. a core team of personnel for each campus must have received training as proscribed by TEA by April 1, 2003
2. if personnel using restraint have not received training, then they must do so within 30 days of the first use of restraint
3. training must include prevention and de-escalation techniques and provide alternatives to the use of restraint
4. all trained personnel shall receive instruction in current professionally accepted practices regarding behavior management and restraint

(e) Documentation

1. on the day restraint is utilized, the campus administrator or designee must be notified verbally or in writing regarding the use of restraint
2. on the day restraint is utilized a good faith effort shall be made to verbally notify the parents regarding the use of restraint
3. written notification on the use of restraint must be placed in the mail or otherwise provided to the parent within one school day of the use of restraint
4. written documentation regarding the use of restraint must be placed in the student's eligibility folder in a timely manner
5. documentation must include the nine elements listed in the rules

(f) Important Points

According to TEA, Laura Taylor video conference 5/30/2002, to whom the property belongs is not an issue and does not matter with respect to this rule. 89.1053 (b) (1) (B)

Section 89.1053 (f) clarifies that there are some actions that school personnel might take, which while meeting the definition of restraint, are not subject to the rules imposed in sections 89.1053 (c) –(e). This means that restraint that fits into the definitions described in section (f) do not require the district to follow the steps and procedures detailed above.

For purposes of this section (f), restraint does not include:

1. physical contact or appropriately prescribed adaptive equipment to promote normative body positioning and/or physical functioning;
2. Limited physical contact with a student:

- a) To promote safety (e.g. holding a student's hand),
  - b) To prevent a potentially harmful action (e.g. running into the street),
  - c) To teach a skill, or
  - d) To provide comfort.
3. Limited physical contact or appropriately prescribed adaptive equipment to prevent a student from engaging in ongoing, repetitive self-injurious behaviors; or
  4. Seat belts and other safety equipment used to secure students during transportation.

So, under these four specific types of circumstances the school is not:

- a) bound to emergency only use (c)
- b) required to provide training (d), or
- c) Required to document any of these activities as describe in section (e).

Important training notes from video conference 5/30/2002:

1. A school cannot use restraint to make a child stay in time out.
2. A school can, in the course of regular class instruction, engage in proactive behavior to keep a student in the classroom, who is inclined to bolt from the classroom, thereby potentially endangering him/herself.
3. Remember that a school cannot use locks, physical force, or the threat of physical force to confine a student to a room.

(While it is clear that numbers 2 and 3 above are clearly contradictory, they are in fact not. There is a subtle difference. Gene Lenz spoke to this issue and specifically referred to the structure of the instructional setting as being manipulated to provide informal barriers to exit.)

### *FOF.SE.1.C Confinement*

Definition – State Law 37.0021 (a)

“. . . to be confined in a locked box, locked closet, or other specially designed locked space as either a discipline management practice of a behavior management technique.”

Use

Schools are prohibited from using confinement.

Important Points

In their video conference of 5/30/2002, TEA stated that based on a study of the law, legislative intent, and other factors, that the rules with respect to seclusion, confinement, and time-out combine to mean that a district cannot confine a special education student to a room, box, or space of any kind, shape or size using a lock, physical restraint, or the threat of physical restraint.

Definition – State Law 37.0021 (b) (2)

“Seclusion means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that: a) is designed solely to seclude a person; and b) contains less than 50 square feet of space.

Use

School districts are prohibited from placing a student in seclusion.

Important Points

While the commissioner’s rules on seclusion were not enacted, this was due to a technical detail in the law which prevented the commissioner from making the rules. The law itself is still in effect.