
Note: The policies in the EHBA series are statements of principles governing special education programs for Texas school districts. In no way are these policies intended to cover the entire scope and detail involved in administering any special education program or to substitute for individual programs or for policies concerning special education cooperatives.

NONDISCRIMINATION No qualified student with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any District service, program, or activity. *42 U.S.C. 12132; 29 U.S.C. 794; 34 CFR 104.4(a)* [See also FB]

PROVISION OF SPECIAL EDUCATION Eligible students with disabilities shall enjoy the right to a free appropriate public education, which may include instruction in the regular classroom, instruction through special teaching, or instruction through approved contracts. Instruction shall be supplemented by the provision of related services when appropriate. *Education Code 29.003(a)*

LEAST RESTRICTIVE ENVIRONMENT The District shall ensure that to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, shall be educated with children who are nondisabled. Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment shall occur only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. *20 U.S.C. 1412(5), 1413(a); 34 CFR 300.550*

DEFINITIONS "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 a student with a disability. *20 U.S.C. 1401(1); 34 CFR 300.5*

"Assistive technology service" means any service that directly assists a student with a disability in the selection, acquisition, or use of an assistive technology device, as defined above. *20 U.S.C. 1401(2); 34 CFR 300.6*

"Extended school year (ESY) services" are special education and related services that are provided to a child with a disability beyond the District's normal school year, in accordance with the child's individualized education program, and at no cost to the parents. The services shall meet TEA standards. *34 CFR 300.309(b); 19 TAC 89.1065*

"Free appropriate public education" means special education and related services that have been provided at public expense, under public supervision and direction, and without charge and that must meet standards set out by TEA and include an appropriate preschool, elementary, or secondary school education, and be provided in conformity with the student's individualized education program (IEP). *20 U.S.C. 1401(8); 34 CFR 300.13, 300.121(d)* [See **EHBAB**]

Four factors indicate whether an individualized education program is reasonably calculated to provide a meaningful educational benefit:

1. It is individualized on the basis of the student's assessment and performance;
2. It is administered in the least restrictive environment;
3. The services are provided in a coordinated and collaborative manner by the key "stakeholders"; and
4. Positive academic and nonacademic benefits are demonstrated.

Cypress-Fairbanks Indep. Sch. Dist. v. Michael F., 118 F.3d 245 (5th Cir. 1997)

"Related services" means transportation, and such developmental, corrective, and other supportive services (including speech-language pathology and audiology services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that such medical services shall be for diagnostic and evaluation purposes only) as may be required to assist a child with a disability to benefit from special education. The term also includes

school health services, social work services in schools, and parent counseling and training. It includes the early identification and assessment of disabling conditions in children. In addition to the specific related services defined in federal regulations, related services include interpreting services for students who are deaf. Interpreting services include interpreting/transliterating receptively and expressively for persons who are deaf or hard of hearing. *20 U.S.C. 1401(22); 34 CFR 300.24; 19 TAC 89.1060*

"Special education" means specially designed instruction, at no cost to parents, to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings, and instruction in physical education. *20 U.S.C. 1401(25); 34 CFR 300.26*

"Transition services" means a coordinated set of activities for a student, designed within an outcome-oriented process, that promotes movement from school to post-school activities, including postsecondary education, vocational training, integrated employment, including supported employment, continuing and adult education, adult services, independent living, or community participation. These activities must be based on the individual student's needs, taking into account the student's preferences and interests. They must also include instruction, related services, community experiences, development of employment and other post-school adult living objectives, and when appropriate, acquisition of daily living skills and functional vocational evaluation. *20 U.S.C. 1401(30); 34 CFR 300.29*

DISCIPLINE	All disciplinary actions regarding students with disabilities shall be in accordance with federal requirements, Education Code Chapter 37, and 19 TAC 89.1053. <i>19 TAC 89.1050(g)</i> [See FOE]
ELIGIBILITY FOLDER	The District shall maintain an eligibility folder for each student in special education in addition to the student's cumulative record. The folder shall include, but need not be limited to, copies of referral data, documentation of notices and consents, evaluation reports and supporting data, ARD committee reports, and the student's IEP. <i>19 TAC 89.1075(a)</i>
PERSONNEL ASSIGNED TO VISUALLY IMPAIRED	If the District provides special education services to students with visual impairments, it shall have written procedures as required in Education Code 30.002(c)(10). <i>19 TAC 89.1075(b)</i>
SHARED SERVICES ARRANGEMENTS	The District may enter into a written contract to jointly operate its special education program. The contract must be approved by the Commissioner. <i>Education Code 29.007</i>
TRANSFER OF	TEA shall develop and annually disseminate standards for the

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District's transfer of an assistive technology device when a student with a disability using the device changes the school of attendance in the District or ceases to attend school in the district that purchased the device, and the student's parents, or the student if the student has the legal capacity to enter into a contract, agrees to the transfer. The device may be transferred to:

1. The school or District in which the student enrolls;
2. A state agency; or
3. The student's parents, or the student, if the student has the legal capacity to enter into a contract.

A transfer of an assistive technology device (ATD) shall be in accordance with a transfer agreement which incorporates the standards described in Education Code 30.0015(c), and which includes, specifically, the following:

1. The transferor and transferee must represent and agree that the terms of the transfer are based on the fair market value of the ATD, determined in accordance with generally accepted accounting principles.
2. The informed consent of the parent of the student with a disability for whom the ATD is being transferred must be obtained before the transfer of an ATD. The procedures employed by the District in obtaining such informed consent shall be consistent with the procedures employed by the District to obtain parental consent under 34 CFR 300.505. If the student has the legal capacity to enter into a contract, the informed consent may be obtained from the student. Consistent with 34 CFR 300.505(c), informed parental or adult student consent need not be obtained if the District can demonstrate that it has taken reasonable measures to obtain that consent, and the student's parent or the adult student has failed to respond. To meet the reasonable measures requirement, the District must use procedures consistent with those described in 34 CFR 300.345(d).
3. If the transfer is a sale, then the sale of the ATD shall be evidenced by a "Uniform Transfer Agreement" (UTA) which includes the following:
 - a. The names of the transferor and the transferee (which may be any individual or entity identified in Education

- Code 30.0015[b]);
- b. The date of the transfer;
 - c. A description of the ATD being transferred;
 - d. The terms of the transfer (including the transfer of warranties, to the extent applicable); and
 - e. The signatures of authorized representatives of both the transferor and the transferee.
4. TEA shall annually disseminate to school districts the standards for the District's transfer of an ATD.

Education Code 30.0015; 19 TAC 89.1056

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