PARADISE INDEPENDENT SCHOOL DISTRICT
SPECIAL EDUCATION OPERATING PROCEDURES:
ADMISSION, REVIEW, & DISMISSAL COMMITTEE MEMBERSHIP

PARADISE ISD has entered into an Interlocal Agreement to cooperatively operate its special education programs under the authority of Tex. Ed. Code § 11.157. The Wise County Shared Services Special Education Services Cooperative may provide for the efficient delivery of legally required special education and related services to PARADISE ISD's eligible students with disabilities as set forth in the Interlocal Agreement, including the implementation of these Special Education Operating Procedures.

Paradise ISD Board Policy along with these *Special Education Operating Procedures* constitute the Policies and Procedures of Paradise ISD, designed to be consistent with the State policies and procedures developed pursuant to the IDEA. Paradise ISD *Special Education Operating Procedures* are not to be for the purpose of creating a requirement that is not otherwise imposed by the Individuals with Disabilities Education Improvement Act ("IDEA"), together with its implementing federal regulations, state statutes and rules, as they shall from time to time be amended, and shall not be construed to create a higher standard than that established by IDEA. These *Special Education Operating Procedures* will be posted on Paradise ISD's website. These *Special Education Operating Procedures* should be interpreted consistent with the IDEA. Paradise ISD's *Special Education Operating Procedures* are reviewed and updated, as needed, on at least an annual basis. Paradise ISD will make timely changes to policies and procedures in response to IDEA amendments, regulatory or rule changes, changes to state policy, or new legal interpretation as are necessary to bring Paradise ISD into compliance with the requirements of IDEA. Paradise ISD maintains systems to ensure that all students with disabilities residing in the District, including students with disabilities attending non-public schools, regardless of the severity of their disabilities, and who are in need of special education and related services, are identified, located, and evaluated and provided a free appropriate public education. Paradise ISD maintains systems to ensure that students with disabilities and their parents are afforded the procedural safeguards required under the IDEA (and its implementing federal regulations, state statutes and rules) including with respect to the confidentiality of records and personally identifiable information.

Who Are the Members of the Admission, Review, and Dismissal (ARD) Committee?

For each eligible student with a disability, the Diagnostician shall establish an ARD committee.[1] Each student's ARD committee shall include the following participants:[2]

- a parent or adult student; [3]

- a general education teacher of the student if the student is or may be participating in the general education environment.[4] The student's general education teacher, shall, to the extent appropriate, participate in the development of the student's IEP, including the determination of appropriate positive behavioral interventions and supports and other strategies for the child, supplementary aids and services, program modifications, and support for school personnel;

[1] 19 TEX. ADMIN. CODE § 89.1050(a)
[2] 34 C.F.R. § 300.321 (a); 19 TEX. ADMIN. CODE § 89.1050(c)
[3] 34 C.F.R. § 300.327
[4] U.S. Dept. of Education, 71 Fed. Reg. 46669 (August 14, 2006) ("[i]t would be inappropriate to require that individuals with specific professional knowledge or qualifications attend all IEP Team meetings. These decisions should be made on a case-by-case basis in light of the needs of a particular child").

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- a special education teacher of the student. The special education teacher or provider who is a member of the student's ARD committee should be the person who is responsible for implementing the IEP. For example, if the student's disability is a speech impairment, the special education teacher or special education provider could be the speech language pathologist; [5]

- a representative of the District who is qualified to provide, or supervise the provision of, specially designed instruction and is knowledgeable about the general education curriculum and about the availability of District resources. The District's representative may be the Director of Special Education or campus designee or a campus administrator acting on behalf of the District. The choice of the representative is at the discretion of the District, so long as the District's representative meets these criteria;[6]

- an individual who can interpret the instructional implications of evaluation results, such as a School Psychologist or an Educational Diagnostician;

- at the discretion of the parent, guardian or the District, other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate; and

- whenever appropriate, the student.

The ARD committee shall also include the following additional participants, as appropriate:

- with the consent of a parent, guardian or a student who has reached the age of majority, a representative of any participating agency likely to be responsible for providing or paying for transition services. The Case Manager, to the extent practicable under the circumstances, shall document efforts to obtain parental consent for the participation of an individual from the Texas Workforce Commission prior to or at the beginning of a student's ARD committee meeting wherein transition services will be discussed;

- a representative from the District's Career and Technical Education (CTE) when the student's ARD committee is considering placement of a student in CTE;

- if the student is identified as an emergent bilingual student, a professional staff member who is on the District's Language Proficiency Assessment Committee in accordance with Paradise ISD's Policy EHBE(Legal);

- if the student is a student with a suspected or documented visual impairment, a teacher who is certified in the education of students with visual impairments;

[5] U.S. Dept. of Education, 71 Fed. Reg. 46669 (August 14, 2006)
[6] U.S. Dept. of Education, 71 Fed. Reg. 46670 (August 14, 2006)

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- if the student is a student who is suspected to be or is documented to be deaf or hard of hearing, the student's Teacher of the Deaf and Hard of Hearing;

- if the student is a student with suspected or documented deaf-blindness, a teacher who is certified in the education of students with visual impairments and a teacher who is certified in the education of students who are deaf or hard of hearing;[7] and

- if the student is suspected or identified to be a student with dyslexia, when determining initial or continued eligibility, the ARD committee must include a professional who meets the credential and training requirements specified in "TEA's Dyslexia Handbook."[8] This member's participation and involvement in an ARD committee meeting must be noted on an IEP signature page and clearly indicate that the person is fulfilling the role of this required member.[9]

Required members must be present for the ARD committee meeting unless properly excused by the parent or guardian and the District. IDEA requires different procedures for different types of excusals, including differentiating between circumstances in which parental consent is required and when an agreement is required to excuse a mandatory ARD committee member from attending an ARD committee meeting. Therefore, Paradise ISD has different procedures in place for the different types of excusals.[10] The two types of excusals triggering the excusal requirements are: (1) when a required ARD committee member's area of the curriculum or expertise is not being modified or discussed; and (2) when a required ARD committee member's area of the curriculum or expertise is being modified or discussed.

With the first type of excusal, when a required ARD committee member's area of the curriculum or expertise is not being modified or discussed, parent or guardian and Paradise ISD agreement is required; however, Paradise ISD is given wide latitude about the content of the agreement to excuse a required ARD committee member from the meeting.[11] With the second type of excusal, when a required ARD committee member's area of the curriculum or expertise is being modified or discussed, parent or guardian consent is required, and the excused member must submit in writing, to the parent or guardian and the ARD committee, input into the development of the IEP prior to the meeting. When consent is required, the Diagnostician will ensure that all of the IDEA consent requirements are satisfied, including by providing the parent or guardian with appropriate and sufficient information to ensure that the parent or guardian fully understands that the parent or guardian is consenting to excuse an ARD committee member from attending an ARD meeting in which the member's area of the curriculum or expertise is being changed or discussed. The parent or guardian must also be informed that if the parent does not consent, the

[7] *Id.*
[8] *Id.*
[9] TEX. ED. CODE § 29.0031(c); TEA's "FAQs: Dyslexia Evaluation, Identification and Instruction—House Bill 3928"
[10] US Department of Education, 71 Fed. Reg. 46673 (August 14, 2006)
[11] *Id.*

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ARD committee meeting must be held with that ARD committee member in attendance.[12] The Diagnostician shall document all ARD committee meeting participants, including any member who is excused prior to or during the meeting, and shall verify that the excusal procedures have been followed.

PRACTICE GUIDE—If a parent brings an attorney to an ARD committee meeting without notice to the District, the ARD committee may reschedule the ARD committee meeting to a time and date that the District's counsel may attend the meeting in-person or by virtual means.

[13]

Demonstrations of this procedure's implementation may include, but are not limited to, examples such as:

- Notices and/or Invitations to ARD committee meetings
- Check-lists
- Telephone logs of calls made and attempted in an effort to convince parents to participate in ARD committee meetings
- Records of written correspondence sent in an effort to convince parents to participate in ARD committee meetings
- Records of visits to the parent's home or place of employment in an effort to convince parents to participate in ARD committee meetings
- Written notifications of restraint

[12] *Id.*

[13] OSEP's ***Letter to Andel*** (February 17, 2016)("[i]t would be permissible for the public agency to reschedule the meeting to another date and time if the parent agrees so long as the postponement does not result in a delay or denial of a free appropriate public education to the child").

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