

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

Brenham ISD Board Policy along with these *Special Education Operating Procedures* constitute the Policies and Procedures of Brenham ISD, designed to be consistent with the State policies and procedures developed pursuant to the IDEA. Brenham 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 Brenham ISD’s website. These *Special Education Operating Procedures* should be interpreted consistent with the IDEA. Brenham ISD’s *Special Education Operating Procedures* are reviewed and updated, as needed, on at least an annual basis. Brenham 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 Brenham ISD into compliance with the requirements of IDEA. Brenham ISD maintains systems to ensure that all students with disabilities residing in the Brenham, 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. Brenham 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 district 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;
- 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

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”).

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 Brenham 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 Licensed Specialist in School Psychology (LSSP) or an Educational Diagnostician;
- at the discretion of the parent, guardian or the Brenham, 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 district, to the extent practicable under the circumstances, shall document efforts to obtain parental consent for the participation of an individual from the agency prior to or at the beginning of a student's ARD committee meeting wherein transition services will be discussed;
- a representative from the Brenham'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 Brenham's Language Proficiency Assessment Committee in accordance with Brenham 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;
- 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;

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)

- 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
- for any ARD committee meeting that considers initial eligibility for special education and related services based on dyslexia, and at any meeting at which a change in eligibility based on dyslexia is considered (as in a re-evaluation), the ARD committee must include a person with specific knowledge in the reading process, dyslexia and related disorders, and dyslexia instruction who is:
 - a licensed dyslexia therapist (LDT);
 - an individual who holds the most advanced dyslexia-related certification issued by an association recognized by the SBOE, and identified in, or substantially similar to an association identified in, either the rules or Handbook adopted by the SBOE; or
 - If neither of the first two is available, be an individual who meets applicable training requirements adopted by the SBOE.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 Brenham. 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, Brenham 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, parent or guardian and Brenham ISD agreement is required; however, Brenham 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, parent or guardian consent is also required, and the 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 district 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

⁷ *Id.*

⁸ TEX. ED. CODE § 29.0031(b); TEA's "FAQs: Dyslexia Evaluation, Identification and Instruction—House Bill 3928" is available at <https://tea.texas.gov/academics/special-student-populations/special-education/hb-3928-faqs.pdf>

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.*

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 ARD committee meeting must be held with that ARD committee member in attendance.¹² The district 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.

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Within 30 calendar days from the date of the completion of the student's initial special education evaluation report, the student's ARD committee shall make its decisions regarding the student's initial eligibility, and, if appropriate, her or his individualized education program (IEP) and placement.¹⁴

At a duly constituted ARD committee meeting *that is conducted after at least 5 school days-notice to the student's parent or guardian*, the student's ARD committee, including the student's parent or guardian, shall develop an IEP, consistent with **the district's FAPE Composite Operating Procedure**, by considering—¹⁵

- the student's strengths; the concerns of the parents or guardians for enhancing the education of the student; the results of the student's initial or most recent evaluation; and the present academic, developmental, and functional needs of the student;
- in the case of a student whose behavior impedes the student's learning or that of others, the use of positive behavioral interventions and supports, and other strategies to address that behavior. Further, if a BIP is included as part of a student's IEP the district shall ensure that the ARD committee reviews the BIP at least annually and more frequently if appropriate to address the safety of the student or others, or changes in the student's circumstances that may impact the student's behavior.¹⁶ Circumstances that may impact the student's behavior may include but are not limited to: a change of placement to a

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”).

¹⁴ 19 TEX. ADMIN. CODE § 89.1011(d)

¹⁵ 34 C.F.R. § 300.324(a)-(b)

¹⁶ Tex. Ed. Code § 29.005(h); 19 TAC § 89.1055(g)

different educational setting; an increase or persistence in disciplinary actions for similar types of behavior; a pattern of unexcused absences; or unauthorized unsupervised departure from an educational setting.¹⁷

- the language needs of a student with emergent bilingual abilities as those needs relate to the student's IEP;
- providing for instruction in Braille and the use of Braille unless the ARD committee determines, after an evaluation of the student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the student's future needs for instruction in Braille or the use of Braille), consistent with **the district's Evaluation Procedure Operating Procedure**, that instruction in Braille or the use of Braille is not appropriate for the student;
- the communication needs of the student, including, for a student who is deaf or hard of hearing, the student's opportunities for direct communications 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 student's language and communication mode; and
- the student's need for assistive technology devices and services.

What additional ARD committee member responsibilities arise when Brenham ISD provides written notification of the use of restraint?

For students who have a BIP, when the Brenham provides written notification of a restraint as required by **the district's Timeout and Restraint Operating Procedure**, the written notification will specify whether the BIP may need to be revised due to the behavior that prompted the restraint.¹⁸ If revision to the BIP is recommended, the district is responsible for scheduling the ARDC meeting to discuss any potential revisions if appropriate.¹⁹

For students who do not have a BIP, when the Brenham provides written notification of a restraint as required by **the district's Timeout and Restraint Operating Procedure**, Brenham ISD will share information with the parent on how to request an ARD committee meeting to discuss the possibility of an FBA and developing a plan for the student.²⁰

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

¹⁷ *Id.*

¹⁸ 19 TAC Section 89.1053(e) (5) (K)(i)

¹⁹ *Id.*

²⁰ 19 TAC Section 89.1053(e) (5) (K)(ii)

- 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