

ARD Committee Decision Making Process

Federal regulations refer to an IEP team. In Texas, this team is referred to as the Admission, Review, and Dismissal (ARD) committee. This committee meets at least once a year to develop, review and/or revise a student's Individualized Education Program (IEP).

IDEA says that the IEP meeting serves as a communication vehicle between parents and school personnel, and enables them, as equal participants, to make joint, informed decisions regarding:

- The student's needs and appropriate goals designed to enable them to be involved in and make progress in the general education curriculum;
- The extent to which the student will participate in the regular education environment and State and district-wide assessments;
- The supplementary aids and services needed to support that involvement and participation (including in extracurricular and non-academic settings), and to achieve agreed-upon goals; and
- The program modifications or supports for school personnel that will be provided to enable the student to advance toward their goals and to be involved in and make progress in the general education curriculum.

Parents are considered equal partners with school personnel in making these decisions, and the ARD committee must consider the parents' concerns and the information that they provide regarding their child.

Comments to the IDEA 2004 regulations and from the federal Office of Special Education Programs make it clear that when stating services to be provided and the amount of time that they will be provided, the IEP includes information in a manner so that the level of the school's commitment of resources will be clear to parents and other IEP team members. The IEP must also clearly state how the child's progress toward their goals will be measured and when progress reports will be provided.

Requests by parents for additional testing of their child by the school can be made at or outside of an ARD meeting. However, typically the school will want the ARD committee to make this decision. State and federal regulations do not set a timeline for completing additional testing. Parents can request that a timeline be stated in the meeting's paperwork. A request for an independent educational evaluation (IEE) can be made at or outside of an ARD meeting. The decision on such requests is typically made by a special education administrator and not the ARD committee.

Texas regulations say "Upon receipt of a written request for an ARD committee meeting from a parent, the school district must: (1) schedule and convene a meeting in accordance with the procedures in subsection (d) of this section; or (2) within five school days, provide the parent with written notice explaining why the district refuses to convene a meeting." *TAC 89.1050(e)* This written notice is not a prior written notice of refusal as defined in IDEA.

"All members of the ARD committee shall have the opportunity to participate in a collaborative manner in developing the IEP." *TAC 89.1045(h)*

"(a) It is the policy and intent of the Texas Education Agency (TEA) to encourage and support the resolution of any dispute that arises between a parent and a public education agency relating to the identification, evaluation, or educational placement of or the provision of a free appropriate public education (FAPE) to a student with a disability at the lowest level possible and in a prompt, efficient, and effective manner." *89.1150(a)* Three options at the local level are listed: ARD meetings, including individualized education program (IEP) facilitation; meetings or conferences with the student's teachers; meetings or conferences, subject to the district's policies, with the campus administrator, the special education director, the superintendent or the district's board of trustees. IEP facilitation and mediation can be provided by the state.

(f) All members of the ARD committee must have the opportunity to participate in a collaborative manner in developing the IEP. A decision of the ARD committee concerning required elements of the IEP must be made by

mutual agreement if possible. The ARD committee may agree to an annual IEP or an IEP of shorter duration.

(1) When mutual agreement about all required elements of the IEP is not achieved, the parent who disagrees must be offered a single opportunity to recess and reconvene the ARD committee meeting. The period of time for reconvening the ARD committee meeting must not exceed ten school days, unless the parties mutually agree otherwise. The ARD committee must schedule the reconvened meeting at a mutually agreed upon time and place. The opportunity to recess and reconvene is not required 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 that may lead to a placement in a disciplinary alternative education program. The requirements of this subsection do not prohibit the ARD committee from recessing an ARD committee meeting for reasons other (431) than the failure to reach [of the parents and the school district from reaching] mutual agreement (432) about all required elements of an IEP.

(2) During the recess, the ARD committee members must consider alternatives, gather additional data, prepare further documentation, and/or obtain additional resource persons who may assist in enabling the ARD committee to reach mutual agreement.

(3) If a recess is implemented as provided in paragraph (1) of this subsection and the ARD committee still cannot reach mutual agreement, the school district must implement the IEP that it has determined to be appropriate for the student.

(4) When mutual agreement is not reached, a written statement of the basis for the disagreement must be included in the IEP. The parent who disagrees must be offered the opportunity to write his or her own statement of disagreement.

(g) Whenever a school district proposes or refuses to initiate or change the identification, evaluation, or educational placement of a student or the provision of a free appropriate public education to the student, the school district must provide prior written notice as required in 34 CFR, §300.503. This notice must be provided to the parent at least five school days before the school district proposes or refuses the action unless the parent agrees to a shorter timeframe." 89.1050(f)&(g)

Required members of the ARD committee are: the parent(s); one regular education teacher; one special education teacher; a district representative (typically an administrator); a person who can interpret the instructional implications of evaluation results; and individuals with knowledge of the child at the discretion of the parent or school. The parent and school can agree in writing that any of the district ARD members not attend all or part of the meeting, if their area of the curriculum or related services is not being modified or discussed in the meeting. A member can be excused from attending all or part of a meeting when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if the parent and the school agree in writing, and the person submits, in writing to the parent and the ARD/IEP team, input into the development of the IEP prior to the meeting.

After an annual ARD/IEP meeting the parent and school may agree not to convene an IEP team meeting for the purposes of developing a written document to amend or modify the current IEP. This is referred to as amending by agreement in the IDEA regulations. If this is done, the school must inform the IEP team of the changes and provide the parent with a revised copy of the IEP with the amendments incorporated. Issues that are not part of the IEP, eligibility, placement, FAPE, additional testing, or discipline, cannot be addressed through this method. Some schools hold "brief ARDs" with all required members to address revisions, additions or issues concerning a current IEP, or non-IEP issues.

Regulations do not say when a copy of the ARD/IEP paperwork must be given to parents or when committee members must sign the paperwork and indicate their agreement/disagreement. Some districts allow parents to do this a day or two after the meeting or after the paperwork has been provided to them. By requesting a "ten day recess ARD meeting" the parent obtains time to consider the meeting's discussions and decisions and hopefully receive a copy of the paperwork before that meeting.

State regulations no longer require schools to keep minutes or a written report of the meeting or signatures of those in attendance.

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