

# FAPE

## ARD COMMITTEE MEMBERSHIP

July 7, 2022

Model operating procedures created by



Student Solutions

and

**Thompson  
& Horton** LLP  
ATTORNEYS | COUNSELORS

**Disclaimer:** This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional advisor. Consult with your attorney or professional advisor to apply these principles to specific fact situations.

©2020 by Texas Association of School Boards, Inc.

TASB grants members/subscribers of TASB Student Solutions™ the limited right to customize this publication for internal (non-revenue generating) purposes only.



ARD Committee Membership

**CONTENTS**

What is Required..... 1  
    JJAEP Placement – ARD Committee Membership .....3  
    Transfer of Rights – ARD Committee Membership.....3  
    Attendance and Excusal .....3  
Additional Procedures ..... 4  
Evidence of Implementation ..... 6  
Resources ..... 6  
CITATIONS ..... 7

# ARD COMMITTEE MEMBERSHIP

## What is Required

The ARD Committee must include the following individuals:

- The parents of the student with a disability.
- Not less than one of student's regular education teachers who must, to the extent practicable, be a teacher responsible for implementing a portion of student's IEP if the student is, or may be, participating in the regular education environment. For preschool students (ages 3-5 years), the regular education teacher will be the following:
  - For a preschool student with a disability who receives special education services in the home or the home of a childcare provider, there is no regular education teacher of the child, but the parent is encouraged to invite the childcare provider to attend the ARD meeting to share pertinent information about the student.
  - For a preschool student who is enrolled in a community-based early childhood education program, a preschool teacher who meets the administering agency's requirements is qualified to be the regular education teacher of the child (ex: a Head Start teacher).
  - For a preschool student enrolled in an early childhood program within the District, the teacher of the program would be the regular early childhood teacher.
  - For a preschool student in an Early Childhood Special Education (ECSE) classroom, a regular education teacher is not required. However, if the ARD Committee determines that a regular education teacher should attend, the teacher may serve in the role of both the special education teacher and regular education teacher. If it is anticipated that the student will be transitioning to kindergarten during the year the IEP/IFSP is in effect, the kindergarten teacher should be the regular education teacher.
- Not less than one of student's special education teachers, or where appropriate, not less than one of student's special education providers who is appropriately certified or licensed.
- A representative of the District (usually the Campus Special Education Administrator) who:
  - Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with disabilities;
  - Is knowledgeable about the general education curriculum; and
  - Is knowledgeable about the availability of resources of the District.



## ARD Committee Membership

- An individual who can interpret the instructional implications of evaluation results, who may be the regular education teacher, special education teacher or provider, a District representative (usually the District or Campus Assessment Personnel), or a discretionary member on the ARD Committee.
- The student with a disability, whenever appropriate, including when a purpose of the meeting will be the consideration of the postsecondary goals for the student and the transition services needed to assist the student in reaching those goals. See [TRANSITION SERVICES].
- At the discretion of the parent or the District, other discretionary members or individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate.
- With the consent of the parents, and to the extent appropriate, a representative of any participating agency that is likely to be responsible for providing or paying for transition services.
- A representative from career and technical (CTE) education, preferably the student's CTE teacher, when considering initial or continued placement of student in CTE. See [TRANSITION SERVICES].
- If the student is identified as an English language learner, a professional staff member on the LPAC committee, who may be the regular education or special education teacher on the ARD Committee.
- In the case of a student with a suspected or documented visual impairment, a teacher who is certified in the education of students with visual impairments.
- In the case of a student suspected or documented as being a student who is deaf or hard of hearing, a teacher certified in the education of students who are deaf or hard of hearing.
- In the case of 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.
- In the case of a student who was previously served under the Early Childhood Intervention (ECI) program, at the request of the parent, by invitation to the initial ARD Committee meeting only, the ECI service coordinator or other representatives



ARD Committee Membership

of the ECI system.

### **JJAEP Placement – ARD Committee Membership**

In addition to the above relevant members, in the case of an ARD Committee meeting convened to discuss the expulsion and discretionary placement in the Juvenile Justice Alternative Education Program (JJAEP) in a county with a JJAEP, for an offense for which the District may expel a student and discretionarily place the student in JJAEP, the District must invite the administrator of the JJAEP or the administrator's designee.

The District must provide written notice of the meeting at least five school days before the meeting or a shorter timeframe agreed to by the student's parent and a copy of the student's current IEP must be provided to the JJAEP representative with the notice. If the JJAEP representative is unable to attend the ARD Committee meeting, the representative must be given the opportunity to participate in the meeting through alternative means, including conference telephone calls. The JJAEP representative may participate in the meeting to the extent that the meeting relates to the student's placement in the JJAEP and implementation of the student's current IEP in the JJAEP. Campus Special Education Personnel are responsible for identifying and inviting the administrator of the JJAEP or the administrator's designee when discussing the expulsion and discretionary placement in the JJAEP of a child with a disability.

### **Transfer of Rights – ARD Committee Membership**

The ARD Committee must include an adult student following a transfer of rights. Following the transfer of rights, while the parent must be provided the notice of the ARD Committee meeting, it does not give the parent the right to attend the meeting, unless invited. The adult student or the District may invite individuals with knowledge or special expertise regarding the adult student, including student's parents, to be members of the ARD Committee. See [RULE OF CONSTRUCTION] and [ADULT STUDENT AND TRANSFER OF RIGHTS].

### **Attendance and Excusal**

If the parent and the Campus Special Education Administrator agree in writing that an ARD Committee member's attendance is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting, the member is not required to attend the ARD Committee meeting.

When an ARD Committee member's area of the curriculum or related services is being modified or discussed in the ARD Committee meeting, the member may be excused from



## ARD Committee Membership

attendance at the meeting, in whole or in part, if: the parent, in writing, and the Campus Special Education Administrator consent to the excusal and the member to be excused submits to the parent and the ARD Committee, in writing, input into the development of the IEP prior to the meeting. See [CONSENT TO EXCUSE MEMBER FROM ATTENDING ARD COMMITTEE MEETING].

These excusal requirements do not apply to the following ARD Committee members: the parent, the student with a disability, an adult student following a transfer of rights, and a discretionary member. The Campus Special Education Administrator must provide the parent as much notice as possible of the District's request to excuse a team member.

## **Additional Procedures**

Campus Special Education Personnel who is responsible for scheduling an ARD meeting must ensure that all relevant and required individuals have been invited to the ARD Committee meeting and will attend. Thus, where feasible, it is imperative that the purpose of the ARD meeting is clear to ensure all of the required members are in attendance.

Campus Special Education Personnel will ensure that parents have the opportunity to participate in the ARD meeting and make reasonable efforts to schedule the ARD at a mutually agreeable time and location through a variety of efforts, including written communication, phone calls and email communications to the parent, and home visits, where appropriate. See [PARENT PARTICIPATION]. If Campus Special Education Personnel are unable to convince the parent to attend the ARD meeting or the parent indicates that the parent will not be attending the ARD meeting and gives permission for the ARD meeting to proceed without them, the ARD Committee can commence the process without parent participation. See [PARENT PARTICIPATION]. If the ARD Committee will proceed without the parent's participation, the ARD minutes/deliberations should include an explanation of the attempts to obtain parent participation and/or a statement that the parent gave permission to proceed without the parent.

Prior to the ARD meeting, Campus Special Education Personnel will provide the notice of the ARD meeting and ensure that the notice properly identifies those who will be in attendance and the purpose of the ARD meeting. Prior to sending out the notice, Campus Special Education Personnel will contact the parent or adult student to ask for the names and role of any individuals invited by the parent or adult student that will be attending the ARD meeting, as well as any concerns/issues the parent or adult student would like to discuss as the ARD meeting. Depending on the parent/adult student's answer, the Campus Special Education Personnel may need to invite additional members to the meeting. Campus Special Education Personnel should contact the District's Special Education Director or designee regarding how to proceed if the parent indicates that an advocate or attorney will be in attendance at the ARD meeting.



## ARD Committee Membership

Where applicable, Campus Special Education Personnel are also responsible for identifying and inviting a representative of any participating agency that is likely to be responsible for providing or paying for transition services and for obtaining parent/adult student consent for attendance by representative(s) of participating agency(ies). Furthermore, Campus Special Education Personnel are responsible for identifying and inviting the ECI service coordinator or other representatives of the ECI system and obtaining parental consent for an ECI representative to attend ARD meetings where applicable.

If a student will be participating in an ARD meeting, Campus Special Education Personnel will meet with the student prior to the ARD meeting to prepare. During this meeting, Campus Special Education Personnel will describe the student's role in the process and the importance of student participation in creating an appropriate educational program. Campus Special Education Personnel may review a draft IEP with the student prior to the meeting and solicit feedback where appropriate and/or discuss the student's area(s) of concern/strengths and weaknesses prior to the meeting.

Campus Special Education Personnel are responsible for compiling and processing the ARD/IEP paperwork. Campus Special Education Personnel are responsible for sending out the notice of the ARD meeting and ensuring that the notice properly identifies those who will be in attendance and the purpose of the ARD meeting. See [PARENT PARTICIPATION]. Campus Special Education Personnel must also notify the appropriate ARD Committee members of the date and time of the ARD meeting, gather relevant information for the ARD, and create a draft IEP for the ARD Committee members review and input. Campus Special Education Personnel will also be responsible for ensuring that a Prior Written Notice is prepared and information and paperwork are disseminated to the appropriate individuals after the ARD Committee meeting. See [PRIOR WRITTEN NOTICE].

If an interpreter is needed for the ARD meeting, Campus Special Education Personnel will arrange for the interpreter to attend the ARD meeting. See [PARENT PARTICIPATION].

Where possible, the Campus Special Education Administrator shall notify the parent of the District's request to excuse a team member at least five (5) school days prior to the ARD meeting. Notice of excusal must clearly indicate that a member of the ARD Committee will be excused at any point during the meeting and be as detailed as possible. Where necessary, the member being excused from the ARD meeting shall provide written input to the parent no more than forty-eight (48) hours prior to the ARD meeting. If the parent requests additional time to review the written input from the member requesting excusal, the parent may reschedule the meeting or request to reconvene.

The Campus Special Education Administrator will ensure that proper documentation of



## ARD Committee Membership

ARD Committee member excusal from a particular meeting is completed. If an ARD Committee member is not required to attend the ARD meeting (in whole or in part) because the member's area of the curriculum or related services is not being modified or discussed in the meeting, a statement signed by the Campus Special Education Administrator and the parent must be completed noting that the person will not be in attendance, that the person's attendance is not necessary, and that the area of the curriculum or related service is not being modified or discussed during the ARD meeting. If an ARD Committee member whose curriculum or related service area is being discussed at the ARD will not be in attendance, a statement signed by the Campus Special Education Administrator and the parent must be completed agreeing to the member's excusal. Attached to this statement must be the member's written input into the development of the IEP. The Campus Special Education Personnel will attach the signed documentation of a member's excusal to the ARD documentation.

All Campus and District Personnel who work with students with disabilities will receive, at a minimum, annual training regarding ARD Committee Membership, including the roles and responsibilities of each member, parent participation, the excusal process, preparing for ARD meetings, and ARD facilitation

The District will maintain documentation requirements of compliance associated with Texas Student Data System (TSDS), Public Education Information Management System (PEIMS), and State Performance Plan (SPP). District staff will provide training, with follow up, to ensure the documentation required is in place and compliant.

## **Evidence of Implementation**

- ARD/IEP
- Documentation of Parent Participation Attempts
- Notice(s) of ARD Meeting
- Prior Written Notice
- *Notice of Procedural Safeguards*
- *Parent's Guide to the Admission, Review, and Dismissal Process*
- Documentation of Member Excusal
- Documentation Regarding Parent Participation
- Documentation for the state in TSDS, PEIMS, and SPP

## **Resources**

**[The Legal Framework for the Child-Centered Special Education Process: Admission, Review, and Dismissal Committee Membership - Region 18](#)**





ARD Committee Membership

[Consent to Excuse Member from ARD Committee Legal Framework - Region 18](#)

[Parent's Guide to the Admission, Review, and Dismissal Process - Texas Education Agency](#)

[OSEP Letter to Anonymous \(Mar. 31, 2008\) - U.S. Department of Education](#)

[OSEP Letter to Serwecki \(Feb. 28, 2005\) - U.S. Department of Education](#)

[OSEP Letter to Andel \(Feb. 17, 2016\) - U.S. Department of Education](#)

[OSEP Letter to Caplan \(Mar. 17, 2008\) - U.S. Department of Education](#)

[OSERS Questions and Answers on Individualized Education Programs \(IEPs\), Evaluations, and Reevaluations \(revised Sept. 2011\) - U.S. Department of Education](#)

## **CITATIONS**

Board Policy EHBAA; Board Policy EHBAB; 20 U.S.C. 1414; 34 CFR 300.156(c), 300.321, 300.322, 300.328, 300.501, 300.520(a), 300.9; Texas Education Code 29.005, 37.007; Texas Government Code 392.002; 19 TAC 75.1023(d)(1), 89.1015, 89.1045(b), 89.1049(d), 89.1050(c), 1052(b), 89.1075(a)