

SEC. 1. FULL AND INDIVIDUAL EVALUATION (FIIIE)

Texas College Preparatory Academies shall ensure that upon completion of the administration of such tests and other evaluation materials administered according to the evaluation procedures of the Individuals with Disabilities Education Act (“IDEA”), and preparation of the written report, the admission, review and dismissal (“ARD”) committee determines if the student is a student with a disability under state and federal standards.

Texas College Preparatory Academies shall conduct a full and individual initial evaluation (“FIIIE”) prior to providing special education and related services to any student. All students must be evaluated in accordance with the IDEA and the Texas Education Code (“TEC”).

Texas College Preparatory Academies shall have procedures in place to ensure that testing and evaluation materials and procedures utilized for the purposes of evaluation and placement of students with disabilities are selected and administered so as to not be racially, culturally, or gender discriminatory. Assessment and procedures shall be provided and administered in the student’s native language or most proficient mode of communication and in the form most likely to yield accurate information on what the student knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to do so. (34 CFR §300.301; TEC §29.310)

All implementing assessment procedures must differentiate between language proficiency and handicapping condition. Additionally, placement procedures must ensure that placement in a bilingual education or English as a second language program is not refused solely because the student has a disability. (19 TAC §89.1230)

No single procedure shall be the sole criterion for determining whether a student is a student with a disability or for determining an appropriate education program for a student with a disability. The evaluation must be sufficiently comprehensive to identify all of the student’s special education and related services’ needs. Each student must be evaluated in all suspected areas of disability. (34 CFR §§300.301 and 300.304; TEC §29.310)

All assessments must be administered in accordance with the instructions provided and by a trained and knowledgeable person. (34 CFR §§300.301 and 300.304)

SEC. 2. TIMELINE

If a student’s parent provides a written request for an evaluation to the school’s director of special education services or to a district administrative employee, Texas College Preparatory Academies shall, within 15 school days, (1) provide the parent with prior written notice of its proposal to conduct an evaluation, a copy of the procedural safeguards, and an opportunity to

give written consent for the evaluation, or (2) provide prior written notice and procedural safeguards if the school is denying the request for evaluation. (TEC §29.004(c)).

A written FIIE report must be completed not later than the 45th school day following the date on which Texas College Preparatory Academies receives written consent for the evaluation, signed by the student's parent. If the student is absent for more than three days in that time period, the timeline must be extended by the number of days the student was absent. (TEC §29.004(a))

This time frame shall not apply if:

1. A student enrolls in the current school after the relevant time frame has begun and before the previous school made a determination as to whether the student has a disability, but only if the current school is making sufficient progress to ensure a prompt completion of the evaluation and the parent and current school agree to a specific time for completion of the evaluation; or
2. The parent repeatedly fails or refuses to produce the student for the evaluation.

(34 CFR §300.301(d))

Following the completion of the FIIE, the ARD committee must meet within 30 calendar days from the date of completion to review and determine eligibility. (TEC 29.004). If the 30th day falls during the summer and school is not in session, the student's ARD committee has until the first day of classes in the fall to finalize decisions concerning the student's initial eligibility determination, individualized education program ("IEP"), and placement, unless the full individual and initial evaluation indicates that the student will need extended school year services during that summer.

If the student is an English language learner, the language proficiency assessment committee (LPAC) must also attend the meeting to determine services. (19 TAC §89.1050(c)(J))

If Texas College Preparatory Academies receives written consent for an FIIE from a student's parent at least 35 but less than 45 school days before the last instructional day of the school year, the evaluation must be completed and the written report of the evaluation must be provided to the parent not later than June 30 of that year. The ARD committee must meet by the 15th school day of the following school year to consider the evaluation.

If Texas College Preparatory Academies receives written consent signed by a student's parent less than 35 school days before the last instructional day of the school year or if the school receives the written consent at least 35 but less than 45 school days before the last instructional day of the school year but the student is absent from school during that period on three or more days, the FIIE must be completed not later than the 45th school day after receiving consent.

School days do not include days following the last instructional day of the spring term and before the first day of the fall term.

(TEC 29.004)

SEC. 3. SPECIFIC LEARNING DISABILITY EVALUATION

The Texas Education Agency (“TEA”) cannot require Texas College Preparatory Academies to use the severe discrepancy between intellectual ability and achievement for determining whether a student has a specific learning disability. TEA must permit the use of a process based on the child’s response to scientific, research-based intervention; and may permit the use of other alternative research-based procedures for determining whether a student has a specific learning disability.

(34 CFR §300.307)

The evaluation process for a specific learning disability includes an observation of the child in the learning environment, including the regular classroom setting, to document academic performance and behavior in the areas of difficulty. 34 CFR § 300.310 (a).

SEC. 4. FUNCTIONAL BEHAVIOR ASSESSMENT (FBA)

A functional behavior assessment (“FBA”) may be necessary for a student whose behavior impedes their education. Prior to completing an FBA, Texas College Preparatory Academies shall get consent from the parent. (34 CFR §§300.9)

If an ARD committee determines a change of placement is necessary due to the student’s behavior, it must conduct an FBA and implement a behavioral intervention plan (“BIP”). If an FBA was already completed, the ARD committee must review and update the BIP. (34 CFR §300.350(f))

SEC. 5. REVIEW OF EXISTING EVALUATION DATA (REED)

A Review of Existing Evaluation Data (REED) is required as part of an initial evaluation, if appropriate, and as part of any reevaluation. The REED must be conducted by the admission, review, and dismissal (“ARD”) committee members and other qualified professionals, as appropriate. The ARD committee members may conduct the review without a meeting.

The REED must include a review of the following:

- Evaluations and information provided by the parents of the student;

- Current classroom-based, local, or State assessments, and classroom-based observations; and
- Observations by teachers and related services providers.

On the basis of that review, and input from the student's parents, the ARD committee members must identify what additional data, if any, are needed to determine:

- Whether the student is a student with a disability, and the educational needs of the student, or, in case of a reevaluation of a student, whether the student continues to have such a disability and the educational needs of the student;
- Whether the student needs special education and related services, or in the case of a reevaluation of a student, whether the student continues to need special education and related services;
- The present levels of academic achievement and related developmental needs of the student; and
- Whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the IEP of the student and to participate, as appropriate, in the general education curriculum.

Texas College Preparatory Academies shall administer any assessments or other evaluation measures needed to produce the data identified by the REED in accordance with applicable procedural requirements regarding notice and consent.

If additional data is not needed, the ARD committee must notify the parent of the determination decision and provide information about the parent's right to request additional assessments to determine student needs and eligibility. (34 CFR §300.305)

Texas College Preparatory Academies shall conduct a reevaluation of the student if the school determines that the educational or related service needs, including improved academic achievement and functional performance, of the child warrant a reevaluation or if the child's parent or teacher requests a reevaluation. A reevaluation may not occur more than once per year, unless agreed to by the school and the parent. A reevaluation must occur at least every three years, unless the school and parent agree the evaluation is unnecessary. (34 CFR §300.303).

SEC. 6. CHANGE IN ELIGIBILITY

Texas College Preparatory Academies shall evaluate a student with a disability before determining a student is no longer eligible for special education and related services.

An evaluation is not required if a student is no longer eligible due to graduation or exceeding the age eligibility in Texas. Texas College Preparatory Academies shall create a summary of

performance and include recommendations on how to assist the student in meeting postsecondary goals. (34 CFR §300.305(e))

SEC. 7. CONSIDERATION OF SERVICES PROVIDED IN REGULAR EDUCATION SETTING

To ensure that underachievement in the student suspected of having a specific learning disability is not due to lack of appropriate instruction in reading or math, the group of qualified professionals, as part of a full and individual evaluation, must consider:

- Data that demonstrate that prior to, or as part of, the referral process, the student was provided appropriate instruction in regular education settings, delivered by qualified personnel; and
- Data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal assessment of progress during instruction, which was provided to the student's parents. (34 CFR 300.309(b))

SEC. 8. COORDINATION OF EVALUATIONS WITH PRIOR AND SUBSEQUENT SCHOOLS

Texas College Preparatory Academies shall ensure that evaluations of students who transfer from one local education agency to another in the same academic year are coordinated with the student's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of evaluations. (20 U.S.C. 1414(b)(3)(D))

SEC. 9. PSYCHOLOGICAL EXAMINATIONS AND TESTS

On request of a child's parent, before obtaining the parent's consent for the administration of any psychological examination or test to the child as part of the evaluation of the child's need for special education, Texas College Preparatory Academies shall provide to the child's parent:

1. The name and type of the examination or test; and
2. An explanation of how the examination or test will be used to develop an appropriate IEP for the child.

If Texas College Preparatory Academies determines that an additional examination or test is required for the evaluation of a child's need for special education, Texas College Preparatory Academies shall provide the information above to the parent regarding the additional examination or test and shall obtain additional consent for the examination of test. Education Code 29.0041(a), (b).

If a parent does not give consent within 20 calendar days after Texas College Preparatory Academies provides the information, the parent's consent is considered denied.

The time required for Texas College Preparatory Academies to provide information and seek consent may not be counted toward the timeframe for completion of an evaluation. Education Code 29.0041.

SEC. 10. EXTENSION OF TIMELINES

For a specific learning disability, the timelines for evaluation under this policy may be extended by mutual written agreement of the student's parents and the ARD committee. (34 CFR 300.309(c))

SEC. 11. EVALUATION CONDUCTED PURSUANT TO A SPECIAL EDUCATION DUE PROCESS HEARING

A special education hearing officer in an impartial due process hearing brought under 20 U.S.C. §1415 may issue an order or decision that authorizes one or more evaluations of a student who is eligible for, or who is suspected as being eligible for, special education services. Such an order or decision authorizes the evaluation of the student without parental consent as if it were a court order for purposes of any State or federal law providing for consent by order of a court. (TEC §29.016)

SEC. 12. INDEPENDENT EDUCATIONAL EVALUATIONS

The parent of a student with a disability has the right to obtain an independent educational evaluation ("IEE") of the parent's child if the parent disagrees with the evaluation of the student that was obtained by Texas College Preparatory Academies.

If the parent requests an IEE, Texas College Preparatory Academies must provide the parent with information about where the parent may obtain an IEE and about Texas College Preparatory Academies's criteria that apply to IEE.

SEC. 13. DEFINITIONS

An IEE means an evaluation conducted by a qualified examiner who is not employed by the school responsible for the education of a student.

Public expense means that Texas College Preparatory Academies either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent, consistent with the provisions of Part B of IDEA, which allow each State to use whatever State,

local, Federal, and private sources of support are available in the State to meet the requirements of Part B of IDEA.

(34 CFR §300.502)

SEC. 14. RIGHT TO EVALUATION AT PUBLIC EXPENSE

The parent has the right to request an IEE of the parent's child at public expense if the parent disagrees with an evaluation of the student completed by Texas College Preparatory Academies.

If the parent requests an IEE, Texas College Preparatory Academies must respond to the parent by either:

1. without unnecessary delay, file a due process complaint to request a hearing to show that its evaluation of the student is appropriate; or
2. provide an IEE at public expense, unless Texas College Preparatory Academies demonstrates in a due process hearing that the evaluation of the student that the parent obtained did not meet Texas College Preparatory Academies's criteria.

If Texas College Preparatory Academies requests a hearing and the final decision is that Texas College Preparatory Academies's evaluation of the student is appropriate, the parent still has the right to an IEE, but not at public expense.

If the parent requests an IEE of the student, Texas College Preparatory Academies may ask why the parent objects to the evaluation of the student obtained by Texas College Preparatory Academies; however, Texas College Preparatory Academies may not require an explanation and may not unreasonably delay either providing the IEE of the student at public expense or filing a due process complaint to request a due process hearing to defend Texas College Preparatory Academies's evaluation of the student.

The parent is entitled to only one IEE of the student at public expense each time Texas College Preparatory Academies conducts an evaluation of the student with which the parent disagrees.
(34 CFR §300.502)

a) Parent-Initiated Evaluations

If the parent obtains an IEE of the student at public expense or the parent shares with Texas College Preparatory Academies an evaluation of the student that the parent obtained at private expense:

1. Texas College Preparatory Academies must consider the results of the evaluation of the student, if it meets Texas College Preparatory Academies's criteria for IEE, in any decision made with respect to the provision of a free appropriate public education to the student; and
2. the parent or Texas College Preparatory Academies may present the evaluation as evidence at a due process hearing regarding the student.

(34 CFR §300.502)

b) Requests for Evaluations by Hearing Officers

If a hearing officer requests an IEE of the student as part of a due process hearing, the cost of the evaluation must be at public expense.

SEC. 15. CRITERIA FOR OBTAINING IEE AT PUBLIC EXPENSE

The criteria under which the IEE is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that Texas College Preparatory Academies uses when it initiates an evaluation, to the extent those criteria are consistent with the parent's right to an IEE.

a) Location

The evaluator conducting an IEE of a child with a disability at public expense must be located within a 100-mile radius of Texas College Preparatory Academies' campus location.. This will allow the evaluator access to the campus location for observation of the student and access to the student's cumulative and special education eligibility folders and access to the ARD Committee and ARD Committee meetings. The evaluator is strongly encouraged to observe the student in the school setting during the evaluation period.

b) Cost

Parents are free to select whomever they choose to perform the IEE, so long as the examiner meets Texas College Preparatory Academies's qualifications and criteria. An IEE is provided on a reimbursement basis. The amount of reimbursement shall not exceed 35% above the current fee schedule established by the Texas Medicaid/Medicare and Healthcare Partnership for the specific test being considered.

Parents must provide the following to receive reimbursement for the IEE:

1. An evaluation report that substantially complies with Texas College Preparatory Academies evaluation criteria;

2. Copies of the IEE evaluator's license or certification if the IEE is not on the Texas College Preparatory Academies' independent evaluator list;
3. An invoice from the IEE evaluator reflecting the total itemized out-of-pocket cost to the parent.
4. Proof of payment of the invoice.

In the event a parent pursues an IEE independently or pursues an IEE provider that is not on Texas College Preparatory Academies independent evaluator list, Texas College Preparatory Academies will determine if the evaluator meets Texas College Preparatory Academies criteria prior to authorizing payment or reimbursement.

Texas College Preparatory Academies will deny reimbursement for an IEE conducted by an evaluator who does not meet Texas College Preparatory Academies criteria. Texas College Preparatory Academies will deny reimbursement for an IEE that does not meet TEA criteria for the specific disability identified.

If a hearing officer requests an IEE as part of a hearing on a due process complaint, the cost of the evaluation must be at public expense.

Travel costs for evaluators will not exceed Texas College Preparatory Academies rates for travel as established by state guidelines.

A contract for an IEE between an evaluator and Texas College Preparatory Academies will not exceed one year. All terms will become void after the expiration date of one year.

c) Evaluator Criteria

The evaluator conducting the IEE must meet Texas College Preparatory Academies criteria and possess comparable credentials/qualifications to the examiner that conducted the evaluation that is in dispute.

Evaluators must possess current licensure/certification to conduct the evaluation and must provide copies of his or her license or certification with the evaluation, if not previously provided.

Evaluators must comply with all requirements specified in state and federal law, including those outlined in the professional board responsible for providing the license or certification.

Evaluators must meet the examiner qualifications for the tests administered as outlined by the test producer.

The evaluator will have access to the student's cumulative folder and special education folders in gathering information about the student. The evaluator may request specific information that can be provided electronically or may review entire folder contents at the campus. Minimally, the evaluator must review current school records and prior evaluations.

The evaluator will have the ability to interview teachers and observe the student in the educational setting. Teacher input should be obtained through interview, input form, or rating scales. If the parent is given a rating scale to complete, school personnel must also be given a version of rating scale. Differences and similarities in scoring of these ratings scales must be thoroughly discussed in the body of the evaluator report.

Prior to conducting the assessment, the evaluator agrees to submit to a national criminal history review and to provide any and all information necessary to secure the national criminal history review, including fingerprints and photographs, or other information required by Texas Education Code § 22.0834 concerning Contractor or Contractor's Subcontractors.

The evaluator agrees to conduct a thorough evaluation in the area(s) performed by Texas College Preparatory Academies with which the parent disagrees.

Copies of protocols must be provided to Texas College Preparatory Academies.

The report must comply with all federal and state requirements, including addressing the presence or absence of a disability condition as defined under the IDEA and the TEC.

The evaluation must be provided to Texas College Preparatory Academies upon completion.

d) Test Administration

Only the most current edition of nationally normed tests may be utilized in the IEE. Tests must be normed for the chronological age of the student being evaluated unless the reasons for one being used not for the chronological age group is thoroughly discussed in the body of the report.

Parents should not be present in the testing room during assessment unless the reasons for and the possible impact of this are fully discussed in the body of the evaluation report.

Any deviations from standardization must be thoroughly documented in the body of the evaluation report. Abbreviated batteries may not be given unless prior written approval is given by the Executive Director of Special Education.

Sufficient subtests must be administered to determine the levels of functioning in academic areas of reading, writing and math. Decoding, comprehension, and fluency must be assessed in reading, spelling, and written expression must be assessed in writing, and math computation and math reasoning must be assessed in math.

Except for the criteria described above, Texas College Preparatory Academies may not impose conditions or timelines related to obtaining an IEE at public expense. (34 CFR 300.502(e))