

Child Find

CHILD FIND DUTY

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.

CONTENTS

CHILD FIND DUTY 1

 What is Required 1

 Pre-Referral Support Services1

 Right to Information for Students with Learning Difficulties1

 Notice of Rights for a Referral2

 Overidentification.....2

 Child Find for Children in Private Schools2

 Child Find and Youth Who Are Incarcerated4

 Definitions.....5

 Additional Procedures..... 6

 Enrolled Students6

 Private School Students7

 Overidentification.....9

 Evidence of Implementation 9

 Resources..... 10

CITATIONS 11

CHILD FIND DUTY

What is Required

All students residing within the District who have disabilities, regardless of the severity of their disabilities, and who are in need of special education and related services must be identified, located, and evaluated. This responsibility includes, but is not limited to:

- Homeless students;
- Students who are wards of the state;
- Highly mobile students (including migrant students);
- Students who are suspected of being in need of special education but who are advancing from grade to grade;
- Students attending private schools (including home-schools); and
- Incarcerated students.

Pre-Referral Support Services

Before referring a student for possible special education services, the student should be considered for all support services available to all students such as:

- Tutorial;
- Remedial;
- Compensatory;
- Response to evidence-based intervention; and
- Other academic or behavior support services.

Right to Information for Students with Learning Difficulties

Each school year, Campus Personnel must provide notice to the parent of every non-special education student who receives assistance from the District for learning difficulties (including Section 504 students). This notice should be written in English or, to the extent practicable, in the parent's native language and be provided when the student begins to receive assistance for that school year. It should include the following:

- A reasonable description of the assistance the student may receive, such as any intervention strategies that may be used;
- Any information collected related to interventions that have been previously used with the student;
- An estimated duration for which the assistance will be provided;

- An estimated time frame for when the parent will receive reports on the student's progress; and
- A copy of the Texas Education Agency's explanation of the options and requirements for providing assistance to students who have learning difficulties or who need or may need special education (TEA's "Aiding Students Who Have Learning Difficulties or Who Need Special Education or Section 504 Services").

Notice of Rights for a Referral

The Texas Education Agency has developed a notice for distribution and posting on the agency's website that indicates:

- The change made from 2016 to 2017 in reporting requirements for school districts and open-enrollment charter schools regarding the special education representation indicator adopted in the Performance-Based Monitoring Analysis System Manual; and
- In plain language, the rights of a child under both federal and state law and the general process available to initiate a referral of a child for a full individual and initial evaluation to determine the child's eligibility for special education services.

The District must include in this notice developed by TEA information indicating where the local processes and procedures for initiating a referral for special education services eligibility evaluation may be found. The District must provide this notice to the parent of each child who attends school in the District or at the District at any time during the school year. The District must also make the notice available on request to any person. The notice must be available in English and Spanish, and the District must make a good faith effort to provide the notice in the parent's native language if the parent's native language is a language other than English or Spanish.

Overidentification

The District must comply with the state's policies and procedures to ensure that students are not inappropriately overidentified or disproportionately represented by race and ethnicity, including students with disabilities with a particular impairment.

Child Find for Children in Private Schools

The District must locate, identify, and evaluate all students with disabilities who are parentally placed in private schools—including religious, elementary, and secondary schools—located in its jurisdiction. To do so, the District Special Education Administration must timely and meaningfully consult with representatives of private schools located within the District and conduct a thorough and complete child find process. The District

must conduct the child find process for students parentally-placed in private schools in a manner comparable to that of students with disabilities enrolled in District campuses. The District Special Education Administration must maintain records and provide information to TEA indicating the number of students parentally-placed in private schools within the boundaries of the District that have been evaluated, determined to be students with disabilities, and served. All child find efforts must comply with requirements related to proportionate share funding for students parentally-placed in private schools. See [PROPORTIONATE SHARE FUNDING FOR CHILDREN PARENTALLY-PLACED IN PRIVATE SCHOOLS].

If the District is the student's district of residence, rather than the district in which the private school is located, the District cannot refuse to conduct the evaluation and determine the student's eligibility for FAPE just because the student attends a private school in another District.

A home school in Texas may be considered a private school. In order to be considered a private school, a home school must provide elementary or secondary education that incorporates an adopted curriculum designed to meet basic educational goals, including scope and sequence of courses, and formal review and documentation of students' progress, but is not required to be a nonprofit entity.

Referral to District

When a student who has been placed directly by the parent in a private school is referred to the District, the District or Campus Special Education Assessment Personnel will evaluate the student in accordance with the evaluation procedures and hold an ARD Committee meeting to consider the evaluation and determine whether the District can offer the student FAPE. See [EVALUATION PROCEDURES].

However, the District is not responsible for providing FAPE until such time as the student's parent chooses to enroll the student in the District full time. Specifically, no student with a disability parentally-placed in a private school has an individual right to receive in the private school some or all of the special education and related services that the student would receive if enrolled in a District school.

A student with a disability parentally-placed in private school may receive some special education and related services if the District designates the student to receive service under a proportionate share services plan.

Consultation

The District Special Education Administrator(s) must consult with parents and representatives of private schools regarding:

- The Child Find process, including how parentally-placed private school students can be involved in the process and how parents, teachers, and private school officials will be notified about the process;
- The determination of how much proportionate share funding will be made available for services;
- The consultation process between the District, private school officials, and the parent of a parentally-placed private school student to ensure meaningful opportunity to participate in the student's special education program;
- The provision of special education and related services which will be provided for students with disabilities parentally-placed in private schools, including the types of services and alternative service delivery mechanisms, how services will be apportioned if funds are insufficient; and how and when decisions regarding services will be made.

If the private school officials disagree with the District Special Education Administrator regarding the provision or types of services, the District Special Education Administrator will provide the private school a written explanation of the reasons why the District will not provide such services.

The District Special Education Administrator will obtain a written affirmation signed by the private school officials stating that timely and meaningful consultation has occurred. If the private school fails to provide a written affirmation within a reasonable time, the District Special Education Administrator will forward documentation of the consultation process to TEA.

Right of Private School Official to Submit a Complaint

A private school official has the right to submit a TEA complaint that the District did not engage in consultation that was meaningful and timely or did not give due considerations to the views of the private school official. The complaining private school official must provide the basis of the complaint to TEA and the District Special Education Administration will provide appropriate documentation in response. If the private school official is dissatisfied with the response, the official may submit a complaint to the United States Secretary of Education.

Child Find and Youth Who Are Incarcerated

District Special Education Administration will maintain a record of incarcerated youth within the District. Except as explained above for individuals ages 18-21, District Special Education Personnel will identify, locate, and evaluate incarcerated youth with disabilities within the District. To do so, District Special Education Personnel will communicate with

individuals who are most likely to come into contact with incarcerated youth to identify students suspected of having a disability and ensure a timely evaluation is conducted where appropriate.

Definitions

“Student with a disability” includes a student who was evaluated according to the FIE requirements and determined by an ARD Committee to have an intellectual disability, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), a serious emotional disturbance, an orthopedic impairment, autism, traumatic brain injury, an other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities, and who, by reason thereof, needs special education and related services.

“Special education” means specially designed instruction, at no cost to the parents, to meet the unique needs of a student with a disability.

“Specially-designed instruction” means adapting, as appropriate to the needs of an eligible student under the IDEA, the content, methodology, or delivery of instruction:

- To address the unique needs of the student that result from the student’s disability; and
- To ensure access of the student to the general curriculum, so that the student can meet the educational standards within the jurisdiction of the District.

“Related services” means a wide array of developmental, corrective, and other supportive services that are required to assist the student to benefit from special education. Related services do not include a medical device that is surgically implanted, the optimization of that device’s functioning (mapping), maintenance of that device, or the replacement of that device. Special education and related services are based on peer-reviewed research to the extent practicable. Related services include, but are not limited to assistive technology, audiology services, counseling services, interpreting services, medical services, music therapy, occupational therapy, orientation and mobility services, parent counseling and training, physical therapy, psychological services, recreation, rehabilitation counseling services, school health services, social work services in school, speech-language therapy, and transportation.

“Intervention strategy” means a strategy in a multi-tiered system of supports that is above the level of intervention generally used in that system with all students. The term includes response to intervention and other early intervening strategies.

“Parentally-placed private school students with disabilities” includes students with disabilities enrolled by their parents in private, including religious, schools or facilities.

“Private school” is a private elementary or secondary school, including any pre-school, religious school, and instructional day or residential school that:

- Is a nonprofit entity; and
- Provides elementary and secondary education that incorporates an adopted curriculum designed to meet basic educational goals, including scope and sequence of courses, and formal review and documentation of students’ progress.

Additional Procedures

District Special Education Personnel will actively look to identify and locate all students with exceptional needs living in the District’s jurisdiction by disseminating information to the community, including childcare centers, private schools, homeschools, residential treatment centers, day treatment centers, hospitals, mental health institutions, and detention and corrections facilities. District Special Education Personnel will document and maintain records of all efforts to identify, locate, and evaluate students who may be in need of special education services, including the date of each activity and the result of each activity. Child find activities include, but are not limited to, the following activities:

- Distributing written information to all schools, both public and private, in the area, as well as other agencies that may associate with students with special needs;
- Publishing information on the internet, including the District’s website and individual campus websites;
- Offering training and information to private schools and homeschool parents regarding child find obligations and the intervention strategies utilized by the District;
- Drafting pamphlets about the availability of special education services and how to access them and post them in places where parents of a student with a disability are likely to be present, including doctor’s offices, daycare centers, hospitals, therapy centers, treatment centers, detention, and correctional facilities, etc.; and
- Otherwise providing outreach to the community through public service announcements, media advisories, or press releases.

Enrolled Students

Referral of students for possible special education services is part of the campus’ overall regular education referral or screening system. For example, annual screenings will be performed by qualified personnel and may include general health screening (including social/behavioral health), vision screening, hearing screening, speech and language screening, screening for home language, academic screening to determine significance

of academic delays (including dyslexia screening), and screening at the secondary level for students who are at-risk for dropping out or who have dropped out.

In addition, students experiencing difficulties in the regular education setting should have access to research based instructional interventions strategies provided in the general education program. The student's response to those intervention strategies is a critical component of information when a special education referral is considered. Each campus will have a student support team process for tiered interventions and special education referrals, which should include input from teachers, parents, and other individuals with relevant knowledge and should be used to address the student's specific needs including academic, behavioral, emotional, speech, or social difficulties ("intervention strategies").

When a student is referred to the student support team and at least once every subsequent school year that the student is receiving interventions, the parent must be provided a description of the assistance the student may receive, all information collected related to interventions that have been previously used with the student; an estimated duration for which the assistance will be provided; an estimated time frame for when the parent will receive reports on the student's progress; and the District's Aiding Students Who Have Learning Difficulties or Who Need Special Education or Section 504 Services statement. In addition, the parent, upon request, will be provided with the TEA's Updates in Special Education, which describes the process for initiating a referral for special education services and includes the contact information and link on the District's website for the child find process. This information is also included in the Student Handbook and will be provided in the parent's native language, if at all possible.

Implementation of any intervention program or supports by the campus will not serve to delay or deny a referral for a special education evaluation when students are suspected of having a disability and a need for special education services. See [REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES].

Private School Students

In regard to students in private schools, the District is responsible for identifying and locating students with disabilities attending private schools within the District's boundaries even if the student does not live within the District. The District is not responsible for serving district resident students who attend a private school outside of District boundaries, but is still responsible for identifying, locating, and, with parent consent, evaluating those students. At the start of each school year, District Special Education Administration will, to the extent possible, contact the parents of students with disabilities parentally-placed in private schools to notify them of the opportunity to receive an evaluation and possible special education services, including proportionate share services, for students who meet eligibility criteria.

Parents of students enrolled in a private school, or a representative or other individual otherwise qualified to make a referral, may contact the District Special Education Administration to initiate a referral for special education services. See [REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES]. The District Special Education Administration may request that the parent provide documentation related to the student's area of suspected disability, including, but not limited to, classwork, assessments, benchmark testing, health records, and information from the private school regarding the student's progress.

The District Special Education Personnel will maintain a list of all private schools, including home schools, within the District attendance boundaries. District Special Education Personnel will consult in a timely and meaningful way with appropriate representatives of eligible private school students using one or more of the following methods:

- District Special Education Personnel may send written correspondence to all private schools known to the District to be within its boundaries. In addition, written correspondence may be sent to parents of eligible private school students or known to the District to home school their students.
- District Special Education Personnel may schedule individual meetings with the representatives of eligible private school students.
- District Special Education Personnel may schedule a public meeting and invite representatives to provide input.
- District Special Education Personnel may, after notice through the news media and/or invitations to known private schools and private school parents, hold one or more group meetings with representatives of eligible private school students.
- Any other method appropriate for consultation.

Following the timely and meaningful consultation, District Special Education Personnel will obtain a written affirmation signed by the private school official of each of the private schools within the District's attendance boundaries. A signature on an attendance sheet is not a sufficient form of written affirmation.

District Special Education Personnel will keep adequate records of the consultation process, including, but not limited to, a record of all contacts to the private school and/or parent, a record of any response, a record of the agenda of the consultation, a record of the minutes from the consultation, a record of all input provided by the private school official or parent, a record of any disagreement, and a record of the District's response to the disagreement.

District Special Education Personnel will consult with representatives of eligible private school students on these issues as often as is necessary based on the current

circumstances of the District, but at least once every year. The consultation will precede the design and development of the District plan to provide participation of private school students with disabilities in services.

Overidentification

District Special Education Administration will also ensure compliance with all state policies and procedures to prevent the inappropriate overidentification or disproportionate representation by race and ethnicity of students as students with disabilities. The District Special Education Department will monitor and collect data on the race and ethnicity of all students referred to the campus student support team as well as all students evaluated and identified as a student with a disability in need of special education services. The District Special Education Department will also provide training to campuses and special education personnel regarding the needs of students from different linguistic and cultural backgrounds.

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

- Materials Related to Child Find Published and Distributed by the District
- Documentation of Meetings of Student Support Team
- Documentation of Interventions Used and Response
- Documentation for the state in TSDS, PEIMS, and SPP
- Notice to Parents of Interventions
- Aiding Students Who Have Learning Difficulties or Who Need Special Education or Section 504 Services Statement
- Notice of Rights of Referral
- Referral for Special Education
- Consent for FIE
- FIE
- ARD/IEP
- District Data Regarding Race and Ethnicity of Students Referred and Identified
- Private School Contact Database
- Database of Private School Students Evaluated and Identified as Students with Disabilities and Services Currently Received, if Any

- Child Find Documentation Provided to Private Schools or Parents
- A Record of all Private School Contacts and Response
- Consultation Agenda and Minutes
- Record of Disagreement and District Response
- Written Affirmation Statement
- Database of Incarcerated Youth
- Child Find Documentation Showing Contacts with Correctional Facilities in District

Resources

[The Legal Framework for the Child-Centered Special Education Process: Child Find Framework - Region 18](#)

[The Legal Framework for the Child-Centered Special Education Process - Children in Private Schools - Region 18](#)

[The Legal Framework for the Child-Centered Special Education Process: Children Who Are Incarcerated - Region 18](#)

[Child Find - Texas Education Agency
FAQ Regarding Notice for Children Receiving Interventions](#)

[Aiding Students Who Have Learning Difficulties or Who Need Special Education or Section 504 Services - Handbook Statement \(TEA\)](#)

[TEA Notice to Families - Updates in Special Education](#)

[OSEP Policy Documents Regarding the Education of Infants, Toddlers, Children and Youth with Disabilities: Child Find - U.S. Department of Education](#)

[Response to Intervention \(TEA\)](#)

[OSERS Letter to Morath with Monitoring Visit Letter \(Jan. 11, 2018\)](#)

[RTI Cannot Delay Evaluation \(OSEP Memorandum\)](#)

[SPEDTEX - Child Find \(TEA\)](#)

[Guidance on Parentally Placed Private School Children with Disabilities - Texas Education Agency](#)

[Special Education in Nonpublic Schools - Texas Education Agency](#)

[FAQ: Parentally-Placed School Children with Disabilities - TEA](#)

[ESSA Private School Equitable Services - Texas Education Agency](#)

[Questions and Answers on Serving Children with Disabilities Placed by Their Parents in Private Schools \(Apr. 2011\) - U.S. Department of Education](#)

[OSERS Letter to Sarzynski \(July 6, 2015\) - U.S. Department of Education](#)

[OSERS Letter to Sutton and Rubel \(Sept. 29, 2014\) - U.S. Department of Education](#)

[OSERS Letter to Apostle \(Aug. 8, 2012\) - U.S. Department of Education](#)

[OSERS Letter to Corwell \(Feb. 4, 2013\) - U.S. Department of Education](#)

[OSERS Letter to Luger and Weinberg \(Dec. 6, 2011\) - U.S. Department of Education](#)

[OSERS Letter to Eig \(Jan. 28, 2009\) - U.S. Department of Education](#)

[ADD ADDITIONAL DISTRICT RESOURCES]

CITATIONS

Board Policy EHBA; Board Policy EHBAC; 20 USC 1401, 1412, 1412(a)(3)(A); 42 USC 11434a; 34 CFR 77.1, 300.8, 300.13, 300.19, 300.34(a), 300.36, 300.37, 300.39(a)(1),(b)(3), 300.102(a)(2), 300.111(a)(1)(i),(c), 300.130, 300.131, 300.132(a), (c), 300.133(b), 300.134, 300.135, 300.136, 300.137(a)-(c), 300.138, 300.139, 300.142, 300.148, 300.173 300.324(d); Texas Education Code 26.004(a), 26.0081, 29.004, 29.023; 19 TAC 89.1011(a), 89.1096.