

Figure: 19 TAC §97.1072(f)

# Residential Facility Monitoring (RFM) Manual

**Program Monitoring and Interventions  
RF Monitoring Unit  
Texas Education Agency**

Version 1.0  
August 2010

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## **Section A: Introduction / Overview**

### **Residential Facility Monitoring (RFM) Background Information**

On April 15, 2004, the United States District court issued a decision in the *Angel G. vs. Texas Education Agency* lawsuit and found that the Texas Education Agency (TEA) must develop a new monitoring system to ensure that students with disabilities residing in residential facilities (RFs) received a free, appropriate public education (FAPE). On May 17, 2004, TEA filed a Notice of Appeal in the United States Court of Appeals for the Fifth Circuit. During the pendency of the appeal, the parties agreed to the entry of a consent decree to resolve the disputes and to achieve a common goal of developing and implementing an effective monitoring system. The consent decree was filed with the District Court on August 8, 2005, with an automatic expiration date of December 31, 2010, unless either party requested that the District Court extend the term of the consent decree. Neither party to the consent decree requested an extension.

TEA began implementing the consent decree during the 2005-2006 school year by hiring and training RF monitoring staff and developing required products and data collection systems. During the 2006-2007 school year, TEA completed initial development of the RF monitoring system in accordance with the terms of the consent decree, and on-site RF monitoring visits under the terms of the consent decree began. For the subsequent school years of 2007-2008, 2008-2009, and 2009-2010, the agency continued to implement the monitoring system required under the consent decree.

The agency has identified an ongoing need to oversee and monitor the programs provided to students with disabilities who reside in RFs. Accordingly, the commissioner of education has established the RF Monitoring (RFM) system, through which the TEA will meet its federal and state special education monitoring obligations for this population. In accordance with 19 Texas Administrative Code (TAC) §97.1072, the RFM system provides for standards and procedures for monitoring the special education programs provided to students with disabilities residing in RFs. Additionally, the RFM system provides for the implementation of sanctions and interventions to improve local education agency (LEA) performance and compliance with federal and state special education requirements for a unique and vulnerable population of students who often have limited access to family members who can advocate for their educational needs.

### **Local Education Agencies (LEAs) Subject to the RFM System**

LEAs serving students with disabilities residing in RFs located within the LEAs' geographic boundaries and/or jurisdictions will be subject to the RFM system. LEAs subject to the RFM system are referenced as RF LEAs. Other state agencies that provide special education and related services to students with disabilities will not be subject to the RFM system. The definition of an RF for the purposes of the RFM system is a facility that provides 24-hour custody or care of students who reside in the facility for detention, treatment, foster care, or any non-educational purpose. An RF does not include traditional foster homes licensed by the Texas Department of Family and Protective Services (DFPS) as Foster Family Homes (Independent).

### **RFM Activities for the Texas Education Agency (TEA)**

1. A separate data collection system (*RF Tracker*) will be implemented for students with disabilities residing in RFs to collect data related to least restrictive environment (LRE), commensurate school day, extended school year (ESY) services, certified and qualified staff, rate of participation in the Texas Assessment of Knowledge and Skills (TAKS), and related services;
2. Between June and August 31 of each school year, data will be analyzed utilizing the data collected through *RF Tracker* and other data sources available to the TEA;
3. No later than September 30 of each school year, LEAs will be selected for on-site visits based upon the criteria referenced in 19 TAC §97.1072(c), (d), and (i), including a review of data reported by LEAs and/or random selection; and

4. Between September 1 and May 31 of each school year, on-site RF program compliance visits and corrective action reviews will be conducted for selected LEAs.

### ***On-Site RFM Visits***

The TEA will conduct on-site monitoring visits for selected LEAs to determine:

- compliance with federal and state special education requirements for students with disabilities residing in RFs;
- the accuracy of data reported through *RF Tracker* and other systems of reporting;
- timely and sufficient implementation of monitoring and intervention activities;
- implementation of corrective action plans (CAPs); and/or
- continued district compliance after completion of a CAP.

Program compliance review (PCR) visits to selected LEAs will focus on compliance with federal and state special education requirements for students with disabilities residing in RFs and the accuracy of data reported by LEAs through *RF Tracker* and other systems of reporting. Corrective action review (CAR) visits to selected LEAs will focus on timely and sufficient implementation of monitoring and intervention activities, implementation of CAPs, and/or continued district compliance after completion of a CAP.

The TEA will conduct on-site RFM visits for selected LEAs using investigatory questions and compliance standards that address the following:

- the development of individualized education programs (IEPs) by a properly constituted ARD committee, including trained surrogate parents;
- the use of current evaluation data in the development of IEPs;
- IEP implementation;
- LRE;
- educational benefit;
- certified and qualified staff;
- commensurate school day;
- timely and sufficient provision of related services;
- implementation of behavior plans and disciplinary practices;
- transition services;
- ESY services; and
- participation in TAKS.

### ***Selection of LEAs for On-Site Monitoring Visits***

The TEA will select a number of RF LEAs annually for on-site visits. Selection of RF LEAs for on-site reviews will be completed no later than September 30 of each school year. Selection determinations will be made based upon the criteria referenced in 19 TAC §97.1072(c), (d), and (i), including a review of data reported by LEAs and/or random selection. As a system safeguard, the TEA will conduct a number of on-site visits to LEAs to verify system effectiveness and/or LEA implementation of RFM requirements, including, but not limited to, accuracy of data reported through *RF Tracker* and other data reporting systems, timely and sufficient implementation of monitoring and intervention activities, implementation of CAPs, and/or continued district compliance after completion of a CAP. Therefore, on-site visits will be conducted to a number of LEAs that received RFM visits in the previous school year and were required to implement a CAP and other LEAs that received visits in prior years and that have completed a CAP.

Performance information related to the provision of services to RF students is collected through the automated *RF Tracker* system for each LEA that serves students with disabilities who reside in RFs within the geographic boundaries and/or jurisdiction of the LEA. Information concerning each RF, students with disabilities who reside in the RF, and LEA staff who work with these students is gathered and entered in the *RF Tracker* database. After

the initial submission of data, LEAs will maintain *RF Tracker* with current information upon the enrollment and withdrawal of RF students in the LEA. The TEA will utilize *RF Tracker* to not only gather information, but to select RF LEAs based on performance in the areas of LRE, commensurate school day, ESY services, and related services provision.

### ***LEA Reports Following an On-Site Monitoring Visit***

Within 45 calendar days of an on-site PCR visit, the TEA will issue a monitoring and compliance report to the LEA, unless no noncompliance is identified. When noncompliance is identified, the LEA will be required to submit a CAP to the TEA within 30 calendar days of issuance of the TEA compliance report. The TEA will review and approve CAPs within 30 calendar days of receipt of the plans.

After completion of a CAR visit to an LEA currently implementing a CAP, if the TEA verifies that an LEA is not completing activities outlined in the CAP and/or not correcting identified noncompliance in accordance with the CAP, the TEA will issue correspondence related to its CAR visit findings within 15 calendar days of the date the TEA exits the LEA. The LEA also will be required to modify the previously-developed and approved CAP and submit the modified CAP to the TEA within 15 calendar days of the date the correspondence is issued to the LEA. The TEA will review and approve the modified CAP within 15 calendar days of receipt of the plan. The modified CAP must address issues identified during the CAR visit, ensure completion of all CAP activities, and correct identified noncompliance contained in the original report of findings within the original one-year timeline. If areas of noncompliance not contained in the original monitoring and compliance report are identified, the TEA will issue a new report of findings within 45 calendar days from the date the TEA exits the LEA. The LEA will complete a new CAP to address any new areas of noncompliance and submit the CAP to the TEA within 30 calendar days of the date the report of findings is issued to the LEA. The TEA will review and approve the CAP within 30 calendar days of receipt of the plan. The LEA will have one year to correct any newly-identified noncompliance.

After completion of a CAR visit to an LEA that previously completed a CAP, if the TEA verifies that an LEA is not sustaining the correction of one or more areas of noncompliance that previously were identified, the TEA will issue a new monitoring and compliance report to the LEA within 45 calendar days of the CAR visit. This report will also contain any new areas of noncompliance that the TEA identifies during the visit. TEA will require the LEA to submit a CAP to the TEA within 30 calendar days of issuance of the TEA compliance report. The TEA will review and approve the modified CAP within 30 calendar days of receipt of the plan.

The TEA may modify any of the timelines noted above in instances where they may be affected by extended school holidays or breaks or by extenuating circumstances.

### ***Follow-up Activities for LEAs Receiving On-Site Monitoring Visits***

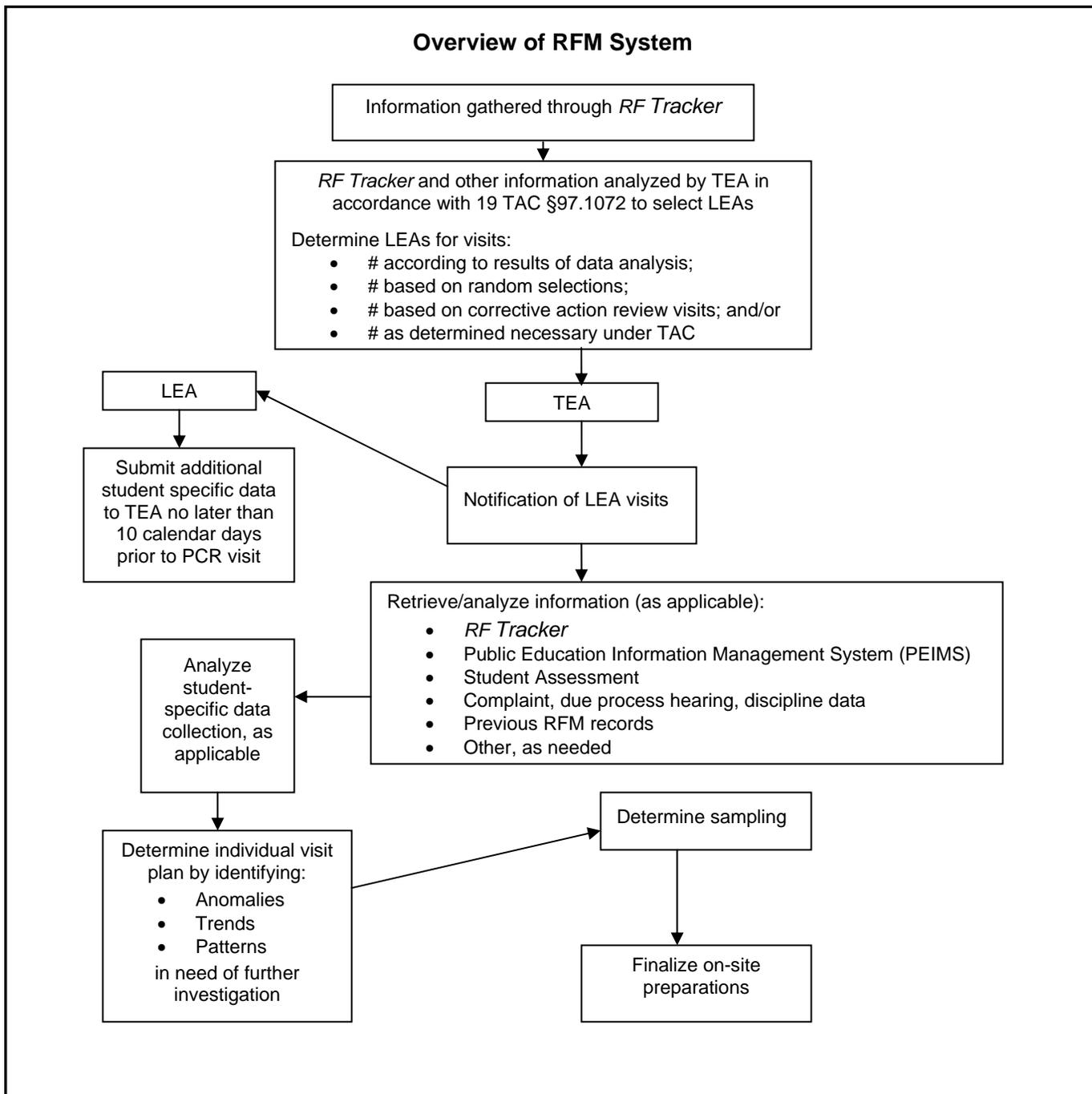
The TEA will engage in follow-up telephone conferences with any LEA that is required to implement a CAP to ensure that progress is made toward correcting all noncompliance in a timely manner. The TEA will require LEAs to complete all corrective actions within one calendar year of the date the TEA issued a monitoring and compliance report.

## Section B: RFM On-Site Visit Methodology

### Background Information

RFM materials and tools have been designed so that:

- The LEAs provide information concerning RF students and programs to the TEA; and
- The TEA independently investigates LEAs' implementation of federal and state special education requirements for RF students.



## **Requirements Related to On-Site Program Compliance Review (PCR) Visit**

### **LEA Actions Prior to On-Site PCR Visit**

The TEA will notify an LEA of its selection for an on-site monitoring visit. An LEA that is selected for an on-site PCR visit will be required to complete the student-specific data collection prior to the TEA's on-site visit. A selected LEA will submit student-specific data using a spreadsheet format provided to the LEA by the TEA. The LEA will complete and submit the required data no later than 10 calendar days prior to the on-site review.

The information requested as part of the student-specific data collection (SSDC) will include, but not be limited to, student name, facility name, date of most current evaluation, teacher name(s), data related to surrogate parent assignment and training, information on access to and participation in extracurricular/co-curricular activities, information on special transportation, data related to participation in TAKS, TAKS (Accommodated), TAKS-M, TAKS-Alt, related services provision, student retention/promotion, student attendance, discipline determinations and assignments, functional vocational evaluations, and parent participation in ARD committee meetings.

The LEA will be required to complete the SSDC as instructed by the TEA for RF students with disabilities served by the LEA as of the date of TEA selection notification. All information required as part of the SSDC will be submitted to the TEA using the *Intervention Stage and Activity Manager* (ISAM) application. Detailed information on the submission of student-specific data will be provided to the LEA at the time the LEA is notified of its selection for an on-site monitoring visit.

Prior to an on-site PCR visit, the LEA is required to arrange for eligibility folders to be available for TEA review during the visit. The LEA also will be required to have LEA staff scheduled to assist the TEA monitoring team during the visit.

### **TEA Actions Prior to On-Site PCR Visit**

In preparation for an on-site visit, the TEA will engage in certain data analysis and planning activities. A general description of the types of activities in which the TEA will engage is listed below.

1. Review and analyze LEA information from the *RF Tracker* database.
2. Review and analyze LEA information from PEIMS and Student Assessment concerning students in RFs, as appropriate.
3. Review and analyze the SSDC information submitted by the LEA.
4. Review complaint information, due process hearing information, and discipline data applicable to the selected LEA.
5. Review and analyze any other pertinent data for the LEA.
6. Identify anomalies, trends, or patterns that emerge from data review and are in need of further investigation during the on-site visit.
7. Determine the individual visit plan for the LEA, including scheduling of monitoring activities.
8. Determine initial sample of student folders and programs to be reviewed. The method of sampling will be determined based on the requirements included in the *General Method of Sampling* section below, as well as in the specific *RFM Investigatory Topics* information included in Section C of this manual. The sample will focus on areas in which possible anomalies, trends, and patterns of service have been identified. The TEA monitoring team may select additional folders for review at any time during the review process. In most instances, prior notice will not be given of the folder sample selected by the TEA, but in no circumstance will prior notice exceed two (2) working days.
9. Arrange schedule for focus group discussions and/or individual interviews with the entities noted below. (See *Focus Group Discussions and Interviews* section below.)
  - **administrators**, including central and campus administration, special education director, and RF director/administrator;

- **direct service providers**, including special education and related services provider(s), general education teacher(s), and care and treatment provider(s) from the RF involved in the instruction and/or care of student(s) in RFs (*no administrators*); and
- **parents**, including foster parent(s), surrogate parent(s), and adult student(s).
  - Inform the LEA that LEA personnel will not participate in the parent group. **Note:** One LEA observer may be in attendance in a parent focus group. This observer is not a participant and should not take part in the discussions.
  - Request phone numbers of any parent(s) not within LEA boundaries for phone interviews.
  - Ensure that the LEA will arrange for all surrogate parent(s) serving RF students with disabilities to be in attendance or request that a phone contact list be provided prior to the on-site visit.

10. Determine interview questions needed for investigatory purposes based on the TEA's analysis of LEA data.

11. Finalize on-site visit preparations.

### ***TEA On-Site Activities for PCR Visit***

The TEA will conduct on-site monitoring activities to determine LEA compliance with applicable requirements for the provision of special education and related services to students with disabilities who reside in an RF within the geographic boundaries and/or jurisdiction of an LEA. To conduct this activity, the TEA will schedule an initial, informal entrance conference to introduce the team members to LEA and RF staff who will participate in the review. During the entrance conference, the TEA on-site team will describe the activities that will take place as part of the on-site visit and will provide LEAs with an opportunity to seek clarification as needed. At the conclusion of the on-site visit, the TEA will share observations and preliminary findings, as applicable, with the LEA. The exit conference will be informal in nature. The official findings of the TEA will be presented to the LEA in a written report subsequent to the on-site visit.

As part of the on-site visit, the TEA also will engage in a review of student eligibility folders for selected RF students with disabilities, conduct student and classroom observations, and conduct focus group discussions and interviews with LEA staff and service providers, RF staff and service providers, parents/surrogate parents, and students. As a result of this review, the TEA will determine whether either student-specific or systemic issues of noncompliance exist.

### **General Method of Sampling**

In conducting the on-site RFM visit, the TEA will utilize a data-informed method of sampling to determine which student folders and programs will be reviewed. Within each investigatory topic discussed in Section C below, specific considerations for the selection of the review sample are provided.

The specific sample for a given LEA will be determined based upon the TEA's review of data submitted to the TEA through *RF Tracker*, PEIMS, the SSDC, student assessment information, and through other available sources. The TEA will review the data to determine whether possible patterns exist or significant trends are identified in specific student subgroups. If patterns of a particular practice or evidence of possible noncompliance emerge, the TEA team will develop a sample that will allow the team to verify the findings during the on-site visit. In addition, the TEA team may modify the sample to be reviewed based upon information gathered while on-site. Sampling methodology will be refined for each investigatory topic in order that a meaningful sample may be used for a given indicator. The sampling methodology may include the exclusion of certain student folders from review as it relates to a particular investigatory topic. For example, when developing a sample to review for LRE considerations, the eligibility folders of RF students who are served in the mainstream setting will not be selected for the LRE review. However, the folders of those students placed in more restrictive placements along the continuum will be given a higher priority for review by the TEA team. The folder of a student who is excluded from review for a given investigatory topic may be included in other aspects of the TEA review. Additional information regarding the sampling guidelines for specific investigatory topics can be found in Section C.

## **Student Folder / Document Review**

The TEA will conduct a student folder and document review in order to determine LEA compliance with the requirements reflected in the investigatory topics included in Section C below. In conducting a student folder review, the TEA will review pertinent evaluation, ARD, and IEP documentation. Additionally, the TEA will review additional documents as applicable and appropriate, including, but not limited to, court documents, LEA policies, procedures, and guidelines, and surrogate parent selection, training, and assignment documentation.

## **Classroom / Student Observations**

The TEA will conduct classroom and student observations to confirm information gathered through student eligibility folder and document reviews and to determine LEA compliance with the requirements reflected in the investigatory topics included in Section C below. The TEA will align, to the extent possible, its classroom and student reviews with the students whose information was reviewed as part of the student eligibility folder and document review.

During the observations, the TEA may request descriptions of the services a student is receiving, including participation with nondisabled peers in any LEA activities such as UIL, sports, field days/trips, etc.

## **Focus Group Discussions and Interviews**

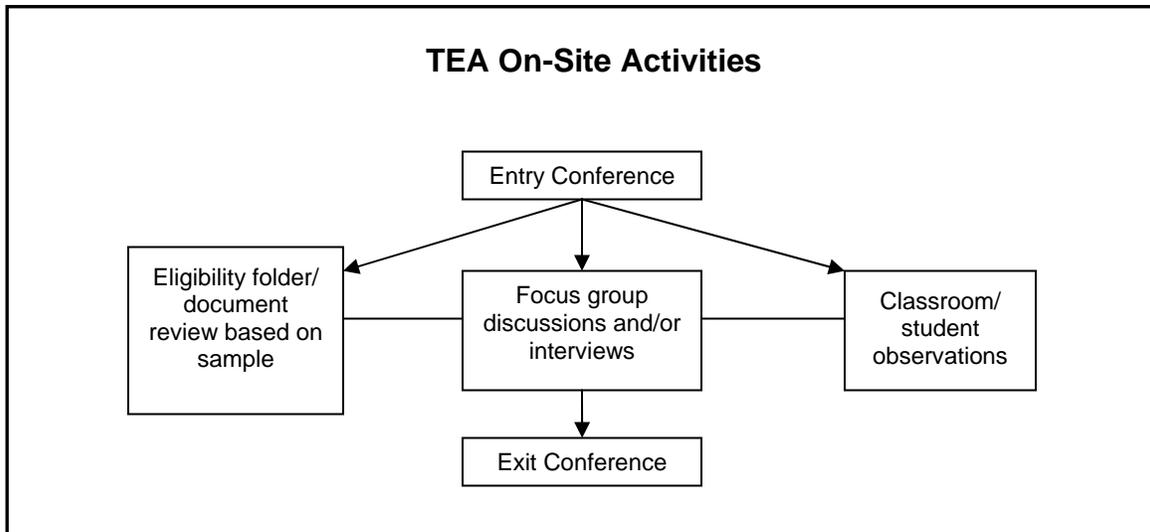
The TEA will conduct focus group discussions and/or interviews in order to confirm information gathered through student eligibility folder and document reviews and classroom and student observations and to determine LEA compliance with the requirements reflected in the investigatory topics included in Section C below.

Focus group discussions may be conducted with the three (3) general groups listed below. No LEA or RF person shall be in more than one group.

- **administrative focus group**, including central and campus administration, special education director, and RF director/ administrator;
- **direct service provider focus group**, including special education and related services provider(s), general education teacher(s), and care and treatment provider(s) from the RF involved in the instruction and/or care of student(s) in RFs (*no administrators*); and
- **parent focus group**, including parent(s), surrogate parent(s), and adult student(s).

Additionally, individual interviews may be conducted by the TEA team in addition to, or in lieu of, focus group discussions, as determined appropriate. These interviews may take place with individuals such as, but not limited to, parents, guardians, foster parents, surrogate parents, RF staff members, teachers, administrators, diagnostic staff, or related services staff. If necessary to gather information, the TEA team will conduct phone interviews prior to, during, or after the on-site visit, as appropriate, with parent(s) of RF student(s) who do not reside within the boundaries of the LEA.

The TEA will request the assistance of the LEA in scheduling the focus group sessions and interviews and in disseminating invitations to required participants. The TEA will provide additional tools and information to the LEA regarding the methods for completion of these activities.



### ***TEA and LEA Actions After the On-Site PCR Visit***

After completion of the on-site PCR visit, the TEA will conduct certain post-visit activities as referenced in this section and the chart on page 11 of this manual. Additionally, the LEA will be required to engage in certain corrective action activities should noncompliance be determined as a result of the TEA's on-site visit. Additional information on corrective action planning and interventions and sanctions can be found in Sections D and E, respectively, of this manual.

Within 45 calendar days of an on-site PCR visit, the TEA will issue a monitoring and compliance report to the LEA, unless no noncompliance is identified. When noncompliance is identified, the LEA will be required to submit a CAP to the TEA within 30 calendar days of issuance of the TEA compliance report. The TEA will review and approve CAPs within 30 calendar days of receipt of the plans. The TEA may modify any of the timelines noted above in instances where they may be affected by extended school holidays or breaks or by extenuating circumstances.

The TEA will conduct follow-up verification of corrective action implementation subsequent to approval of an LEA's CAP. If verification indicates that an LEA has not corrected identified noncompliance within one calendar year from the date the monitoring and compliance report is issued, the LEA will be subject to interventions and sanctions as referenced in 19 TAC §97.1072 and Section E of this manual.

### **Requirements Related to On-Site Corrective Action Review (CAR) Visit**

#### ***LEA Actions Prior to On-Site CAR Visit***

The TEA will conduct on-site CAR visits to a number of RF LEAs that previously have received an on-site RF monitoring visit and were required to implement a CAP. The LEA submitted the CAP to the TEA in response to systemic and/or student-specific findings identified during an on-site PCR visit.

The purpose of the CAR visit is to verify that the LEA is making timely and substantial progress toward completion of targeted activities, correction of identified noncompliance, and performance improvement in the areas of noncompliance reflected in a current CAP or to verify that an LEA remains in compliance with areas of noncompliance previously cleared by the TEA. The purpose is not to conduct a broader monitoring review to determine whether additional issues of noncompliance with federal and/or state special education requirements exist. **However, should instances of noncompliance not contained in the original report of findings be observed during the visit, the LEA will be required to undertake additional corrective actions to address those areas of concern.**

An LEA that is selected for a CAR visit must ensure that all *RF Tracker* data entry for the current year is complete for all RF students as of a date specified by the TEA (generally one week prior to the visit). Students in the *RF Tracker* data collection system must have data reported in the *RF Tracker* that matches the instructional and related services the student was provided during the event type reported in the *RF Tracker* (i.e. Start of Year, Enrollment, or Withdrawal Events). TEA would not expect paired event types for students who started the year, enrolled after the first day of school, or reenrolled in the LEA and continue to be enrolled in the LEA. The TEA will communicate the deadline for data entry to the LEA approximately two weeks prior to the visit.

The LEA will be required to provide access to documentation verifying completion of all activities contained in the CAP and may be required to provide copies of, or access to, staff schedules for staff that serve RF students, certification records for instructional staff and related services personnel, RF student schedules, RF student eligibility folders, and RF student state assessment records.

During the on-site review, the LEA will be required to make certain staff available to respond to TEA questions and assist the TEA staff in reviewing records. The TEA generally will need access to the following staff members:

- Special education administrator;
- Staff member familiar with content of student eligibility folders;
- Instructional personnel and/or other service providers, as appropriate; and
- District/campus liaison to RF facility staff.

Additionally, LEA staff must inform RF staff of the upcoming on-site CAR visit and make them aware that the TEA team may contact RF staff members to validate corrective action activities, verify educational and related services provided to RF students, and/or discuss any issues related to LEA/RF coordination and communication.

### ***TEA Actions Prior to On-Site CAR Visit***

In preparation for an on-site CAR visit, the TEA will engage in certain data analysis and planning activities. A general description of the types of activities in which the TEA will engage is listed below:

- produce and analyze reports reflecting all current *RF Tracker* data, including facility data, student demographic data, student detail data; staff demographic data, and staff role and certification information;
- analyze documents gathered during the previous on-site visit, review previous correspondence and reports of findings issued to the LEA, review information obtained through follow-up phone calls, and analyze materials previously submitted to the TEA related to CAP activities;
- determine the scope of the CAR visit as it relates to correction of systemic and/or student-specific noncompliance identified during the on-site visit; and
- gather additional data as necessary and appropriate to the individual LEA under review.

### ***TEA On-Site Activities for CAR Visit***

#### **CAR Visit to LEA Currently Implementing a Corrective Action Plan (CAP)**

The TEA will conduct on-site monitoring activities to verify timely and substantial progress toward implementation of corrective action activities as specified in the CAP and that CAP activities are leading to correction of all identified noncompliance. To conduct this activity, the TEA will schedule an initial, informal entrance conference to introduce the team members to LEA staff who will participate in the review. During the entrance conference, the TEA on-site team will describe the activities that will take place as part of the on-site visit and will provide LEAs with an opportunity to seek clarification as needed. As part of the on-site visit, the TEA may engage in a review of student and staff records, conduct student and classroom observations, and conduct interviews with LEA staff and service providers, RF staff and service providers, parents/surrogate parents, and students, as applicable. At the conclusion of the on-site visit, the TEA will discuss the progress the LEA is making toward completion of the activities outlined in the CAP and the progress the LEA is making toward correcting the noncompliance. The exit conference will be informal in nature. The official findings of the TEA will be presented to the LEA in written correspondence subsequent to the on-site visit.

### **CAR Visit to LEA No Longer Under a CAP**

The TEA also will conduct on-site monitoring activities to LEAs to verify continued compliance in the areas identified in the original monitoring and compliance report as noncompliant and subsequently cleared through the CAP process. The TEA may engage in a review of student and staff records, conduct student and classroom observations, and conduct interviews with LEA staff and service providers, RF staff and service providers, parents/surrogate parents, and students, as applicable. At the conclusion of the on-site visit, the TEA will share with the LEA its observations and preliminary findings, as applicable, in an informal conference. The official findings of the TEA will be presented to the LEA in written correspondence subsequent to the on-site visit.

### ***TEA and LEA Actions After the On-Site CAR Visit***

#### **CAR Visit to LEA Currently Implementing a CAP**

After completion of the CAR visit to an LEA currently implementing a CAP, if it is verified that an LEA is not completing activities outlined in the CAP and/or not correcting identified noncompliance in accordance with the CAP, the TEA will issue correspondence related to its CAR visit findings within 15 calendar days of the date the TEA exits the LEA. The LEA also will be required to modify the previously-developed and approved CAP and submit the modified CAP to the TEA within 15 calendar days of the date the correspondence is issued to the LEA. The TEA will review and approve the modified CAP within 15 calendar days of receipt of the plan. The modified CAP must address issues identified during the CAR visit, ensure completion of all CAP activities, and correct identified noncompliance contained in the original report of findings within the original one-year timeline.

If areas of noncompliance not contained in the original monitoring and compliance report are identified, the TEA will issue a new report of findings within 45 calendar days from the date the TEA exits the LEA. The LEA will complete a new CAP to address any new areas of noncompliance and submit the CAP to the TEA within 30 calendar days of the date the report of findings is issued to the LEA. The TEA will review and approve the CAP within 30 calendar days of receipt of the plan. The LEA will have one calendar year to correct any newly-identified noncompliance.

The TEA may modify any of the timelines noted above in instances where they may be affected by extended school holidays or breaks or by extenuating circumstances.

The TEA will conduct follow-up verification of corrective action implementation subsequent to approval of the modified or new CAP. Additionally, interventions and sanctions may be implemented as referenced in 19 TAC §97.1072 and Section E of this manual.

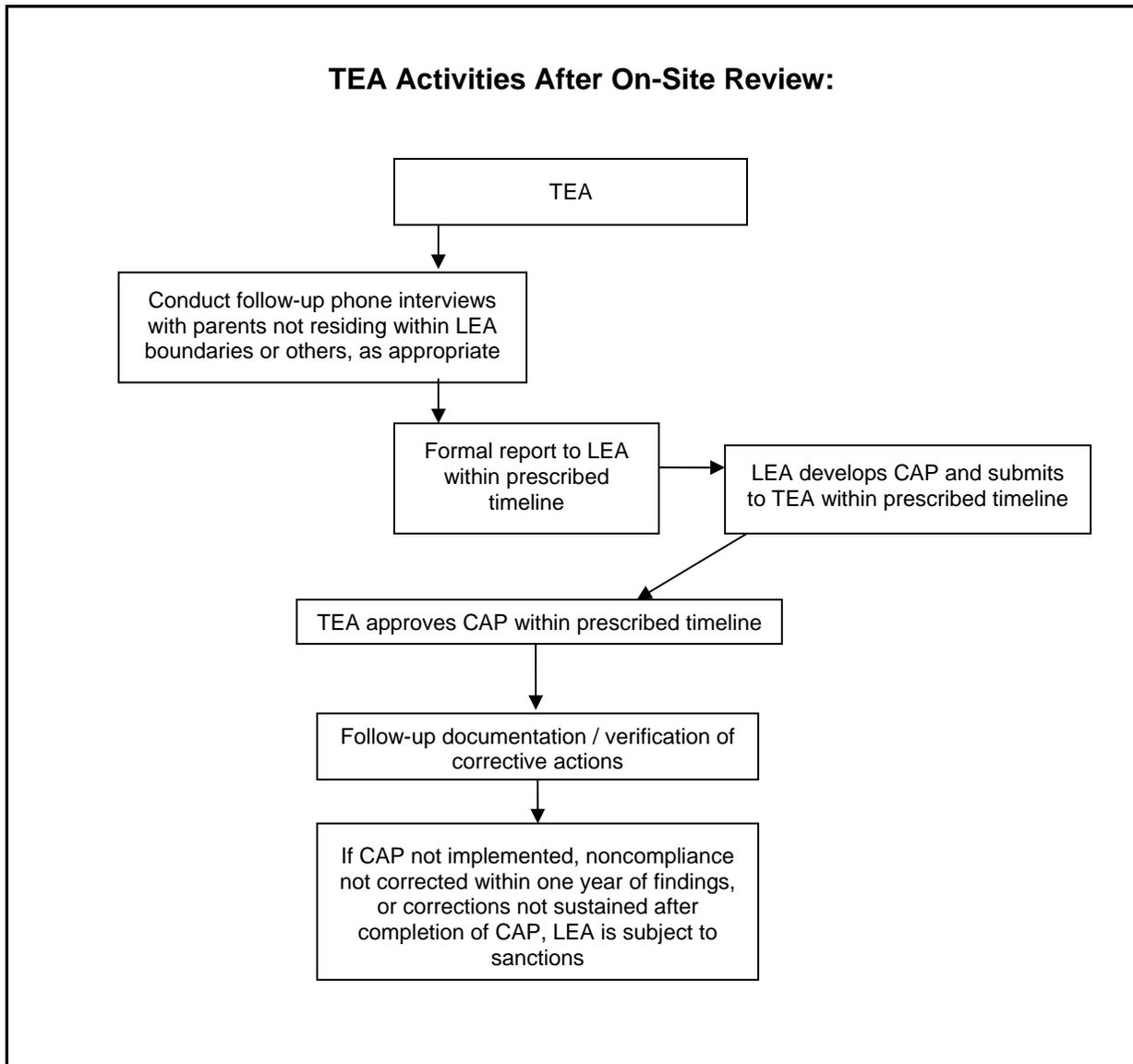
#### **CAR Visit to LEA No Longer Under a CAP**

After completion of the CAR visit, if verification activities indicate that the LEA continues to be in compliance in the areas originally identified during the initial on-site visit, a letter will be issued to the LEA within 30 calendar days of the date the TEA exits the LEA.

After a CAR visit to an LEA that previously completed a CAP, if the TEA verifies that an RF LEA is not sustaining the correction of one or more areas of noncompliance that previously were identified, the TEA will issue a new monitoring and compliance report to the LEA within 45 calendar days of the CAR visit. This report will also contain any new areas of noncompliance that the TEA identifies during the visit. TEA will require the RF LEA to submit a CAP to the TEA within 30 calendar days of issuance of the TEA compliance report. The TEA will review and approve the modified CAP within 30 calendar days of receipt of the plan. The TEA will conduct follow-up verification of correction action implementation subsequent to approval of the new CAP. Additionally, if necessary, interventions and sanctions will be implemented as referenced in 19 TAC §97.1072 and Section E of this manual to address continuing or newly-identified issues of noncompliance.

## All CAR Visits

For both types of CAR visits, the TEA will review only those areas of noncompliance that were included in the original monitoring and compliance report received by the LEA after the LEA's on-site PCR visit. The purpose is **not** to conduct a broader monitoring review to determine whether additional issues of noncompliance with federal and/or state special education requirements exist. **However, should instances of noncompliance not contained in the original report of findings be observed during the visit, the LEA will be required to undertake additional corrective actions to address those areas of concern.**



## ***Section C: RFM Investigatory Topics***

### **Background Information**

Tools to guide the TEA review of LEAs have been developed to address the investigatory topics listed below.

- I. Properly Constituted Admission, Review, and Dismissal (ARD) Committee
- II. Surrogate Parents and Foster Parents
- III. Current Evaluation
- IV. Individualized Education Program (IEP) Implementation
- V. Least Restrictive Environment (LRE)
- VI. Educational Benefit
- VII. Certified/Qualified Staff
- VIII. Commensurate School Day
- IX. Related Services Provision
- X. Behavior/Discipline
- XI. Transition Services
- XII. Extended School Year (ESY) Services
- XIII. Participation in Texas Assessment of Knowledge and Skills (TAKS)

For each investigatory topic, information has been included to provide additional details regarding specific sampling strategies that will be used in the review, data sources that will be considered, patterns or trends that will result in further investigation, and any on-site strategies that will be used to facilitate the review. Additionally, for each topic under review, a template is developed to reflect: 1) the statutory or regulatory requirement under review, including the IDEA 2004 as codified in the United States Code (USC), the Code of Federal Regulations (CFR), the Texas Education Code (TEC), and the Texas Administrative Code (TAC); 2) the investigatory questions to be reviewed by the TEA team; and 3) other investigatory considerations as applicable to the topic.

## Sources of Data for Investigatory Topics

Investigatory Topic	RF Tracker	Student-Specific Data Collection	PEIMS	Student Assessment	On-Site Visit
Properly Constituted ARD Committee		✓			✓
Surrogate / Foster Parents		✓			✓
Current Evaluation		✓			✓
IEP Implementation					✓
Least Restrictive Environment	✓	✓	✓		✓
Educational Benefit			✓	✓	✓
Certified / Qualified Staff	✓				✓
Commensurate School Day	✓	✓			✓
Related Services Provision	✓	✓	✓		✓
Behavior / Discipline	✓	✓	✓		✓
Transition Services	✓	✓			✓
Extended School Year Services	✓	✓	✓		✓
Participation in TAKS	✓	✓		✓	✓

<b>Investigatory Topics</b>	<b>Individualized Education Program (IEP) Development by a Properly Constituted ARD Committee, Including Trained Surrogate Parents, and Based upon Current Evaluation Data; Implementation of Same</b>				
<b>Sampling</b>	<p>For these investigatory topics, the sample will be focused on students who have reached the age of majority, students with assigned surrogate parents, students with foster parents, and students who were not represented by a parent at the ARD committee meeting. However, folders and programs of other RF students also will be reviewed to verify compliance with requirements. If patterns of a particular practice or evidence of possible systemic noncompliance emerge, the TEA team will focus its sampling to verify findings. Within the folders selected, consideration will be given to:</p> <ul style="list-style-type: none"> <li>• the instructional arrangement in which RF students receive services;</li> <li>• the residential facility in which RF students reside;</li> <li>• the LEA campus on which RF students receive services;</li> <li>• students to whom a given surrogate parent is assigned; and</li> <li>• the date on which students' most recent full and individual evaluation or reevaluation was completed.</li> </ul>				
<b>Data Sources</b>	<table border="0" style="width: 100%;"> <tr> <td style="vertical-align: top; width: 30%;">Data to Review Prior to On-Site Visit:</td> <td style="vertical-align: top;"> <ul style="list-style-type: none"> <li>• Student-Specific Data Collection</li> </ul> </td> </tr> <tr> <td style="vertical-align: top;">Data to Review During the On-Site Visit:</td> <td style="vertical-align: top;"> <ul style="list-style-type: none"> <li>• <b>Document Review:</b> ARD/IEP documentation; evaluation schedules; surrogate training documentation; LEA policies, procedures, and guidelines</li> <li>• <b>Interviews:</b> Adult student, parent/guardian, foster parents, surrogate parents, RF staff, teachers, administrators, diagnostic staff, related service personnel</li> </ul> </td> </tr> </table>	Data to Review Prior to On-Site Visit:	<ul style="list-style-type: none"> <li>• Student-Specific Data Collection</li> </ul>	Data to Review During the On-Site Visit:	<ul style="list-style-type: none"> <li>• <b>Document Review:</b> ARD/IEP documentation; evaluation schedules; surrogate training documentation; LEA policies, procedures, and guidelines</li> <li>• <b>Interviews:</b> Adult student, parent/guardian, foster parents, surrogate parents, RF staff, teachers, administrators, diagnostic staff, related service personnel</li> </ul>
Data to Review Prior to On-Site Visit:	<ul style="list-style-type: none"> <li>• Student-Specific Data Collection</li> </ul>				
Data to Review During the On-Site Visit:	<ul style="list-style-type: none"> <li>• <b>Document Review:</b> ARD/IEP documentation; evaluation schedules; surrogate training documentation; LEA policies, procedures, and guidelines</li> <li>• <b>Interviews:</b> Adult student, parent/guardian, foster parents, surrogate parents, RF staff, teachers, administrators, diagnostic staff, related service personnel</li> </ul>				
<b>Further Investigation</b>	<p>As the review of folders is conducted and data are analyzed, the review team may identify possible patterns of practices, trends, and/or indications of individual or systemic noncompliance that may require further investigation to verify the findings. Examples:</p> <ul style="list-style-type: none"> <li>• General education teachers never attend ARD committee meetings for students in certain instructional arrangements;</li> <li>• Most / all RF students are represented by a surrogate parent;</li> <li>• No RF students are represented by a surrogate parent;</li> <li>• RF staff members are serving as surrogate parents and/or signing as parents;</li> <li>• Interviews with parents, students, LEA, or RF staff responses indicate concerns with surrogate parent assignments for RF students;</li> <li>• Most / all RF students residing at an RF are routinely assigned the same special education eligibility upon enrollment; or</li> <li>• Interviews with parents, students, LEA, or RF staff responses indicate concerns with eligibility determinations for RF students.</li> </ul>				
<b>On-Site Strategies</b>	<p>As the review proceeds, the review team may determine a need to gather additional data by conducting specific, individual interviews to verify findings. Additionally, the review team may determine that a review of LEA data in the form of training logs, data management system reports, or additional classroom/student observations is necessary to verify findings on this item.</p>				

**Investigatory Topic: Properly Constituted ARD Committee**

Requirement	Investigatory Questions	Investigatory Considerations
<p><b>34 CFR §300.321. IEP team.</b></p> <p>(a) General. The public agency must ensure that the IEP team for each child with a disability includes—</p> <p>(1) The parents of the child;</p> <p>(2) Not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);</p> <p>(3) Not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child;</p> <p>(4) A representative of the public agency who—</p> <p>(i) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;</p> <p>(ii) Is knowledgeable about the general curriculum; and</p> <p>(iii) Is knowledgeable about the availability of resources of the public agency;</p>	<p>I. Is there evidence that the current IEP was developed by a properly constituted ARD committee, including trained surrogate parents when appropriate?</p> <p>Evidence of attendance at an ARD committee meeting generally is documented by the participant's signature on the ARD/IEP document. However, if it is determined that a person not in attendance at the ARD committee meeting signed the document without attending the meeting, noncompliance has been identified for that member of the ARD committee.</p> <p>A. A properly constituted ARD committee is evidenced if the following members of the committee were in attendance (subject to allowable exclusions) and participated in the development of the current IEP:</p> <p>1. The student with a disability 18 years of age or older who retains their rights to represent him- or herself.</p> <p>If YES, skip to I.A.3. pertaining to the regular education teacher.</p> <p>If the student is of age and has not had rights removed legally, the student represents himself or herself. If an individual who has not been granted guardianship or authority under a valid power of attorney signs in place of the adult student or if a surrogate parent is assigned in this situation, noncompliance has been identified.</p> <p>2. The <b>parent</b> of the student with a disability; including:</p> <ul style="list-style-type: none"> <li>• natural or adoptive parent;</li> <li>• guardian; or</li> <li>• person acting in place of the parent.</li> </ul> <p>If a guardian represents a student who is a ward of the state, ensure that the guardian does not also represent the state. If a guardian who also represents the state is serving as the parent in this circumstance, noncompliance has been identified.</p> <p>If any one of the individuals above who meets the requirements to serve as either adult student or parent is present, move on to I.A.3. pertaining to the regular education teacher.</p>	<p>Unless a student's parent or other individual has been granted guardianship of the student under the Probate Code, Chapter XIII, Guardianship, all rights granted to the parent under the IDEA, Part B, other than the right to receive any notice required under IDEA, Part B, will transfer to the student upon reaching age 18.</p> <p>In accordance with 34 CFR §300.520(a)(2), and TEC §29.017(a), all rights accorded to a parent under IDEA, Part B, including the right to receive any notice required by IDEA, Part B, will transfer to an 18-year-old student who is incarcerated in an adult or juvenile, state or local correctional institution, unless the student's parent or other individual has been granted guardianship of the student under the Probate Code, Chapter XIII, Guardianship.</p> <p>Nothing described above prohibits a valid power of attorney from being executed by an individual who holds rights under the IDEA.</p> <p>If the guardian of a student who is a ward of the state also represents the state, the guardian may not serve as the student's parent for the purposes of special education decision-making, except as permitted by 34 CFR §300.300(a)(2)(iii) regarding consent for initial evaluations.</p> <p>A person acting in place of the parent includes individuals such as a grandparent or stepparent with whom the child lives, or a person who is legally responsible for the child's welfare. The term "parent" under IDEA 2004 does not include an RF staff member.</p>

**Investigatory Topic: Properly Constituted ARD Committee**

Requirement	Investigatory Questions	Investigatory Considerations
	<p>However, if it is necessary for the LEA to assign a surrogate parent to the student, topic II. related to <b>surrogate parents</b> and foster parents must be reviewed before compliance with I.A.2. <b>parent</b> can be determined.</p> <p>If the student is represented by a foster parent, topic II. related to surrogate parents and <b>foster parents</b> must be reviewed before compliance with I.A.2. <b>parent</b> can be determined. Items II.G. and II.H. reflect requirements related to foster parents acting as parents.</p> <p>If the adult student, parent, surrogate parent, or foster parent was not present at the ARD committee meeting, review A1.E. to determine compliance with parent participation requirements.</p>	

**Investigatory Topic: Properly Constituted ARD Committee**

Requirement	Investigatory Questions	Investigatory Considerations
<p>(5) An individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in paragraphs (a)(2) through (a)(6) of this section;</p> <p>(6) At the discretion of the parent or the agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and</p> <p>(7) Whenever appropriate, the child with a disability.</p> <p>(b) Transition services participants.</p> <p>(1) In accordance with paragraph (a)(7) of this section, the public agency must invite a child with a disability to attend the child's IEP Team meeting if a purpose of the meeting will be the consideration of the postsecondary goals for the child and the transition services needed to assist the child in reaching those goals under §300.320(b)</p>	<p>3. Not less than one <b>regular education teacher</b> of the child (if the child is, or may be, participating in the regular education environment).</p> <p>A regular education teacher of the child, as a member of the ARD committee, shall, to the extent appropriate, participate in the development of the IEP of the child, including the determination of appropriate positive behavioral interventions and supports, and other strategies, and the determination of supplementary aids and services, program modifications, and support for school personnel.</p> <p>4. Not less than one <b>special education teacher</b> of the child, or if appropriate, not less than one special education provider of the child.</p> <p>If the student is identified as having visual impairments, hearing impairment or deaf-blindness, then the following personnel may serve as the special education teacher.</p> <p>a. A teacher who is certified in the education of students with visual impairments must attend each ARD committee meeting or individualized family service plan (IFSP) meeting of a student with a visual impairment, including deaf-blindness.</p> <p>b. A teacher who is certified in the education of students with auditory impairments must attend each ARD committee meeting or IFSP meeting of a student with an auditory impairment, including deaf-blindness.</p>	<p>A member of the ARD committee referenced in I.A.3. through I.A.6. shall not be required to attend an IEP meeting, in whole or in part, if the parent of a child with a disability and the local educational agency agree in writing that the attendance of such member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.</p> <p>A member of the ARD committee as described above may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if the following occurs:</p> <ul style="list-style-type: none"> <li>• the parent, in writing, and the local educational agency consent to the excusal; and</li> <li>• the member submits, in writing to the parent and the ARD committee, input into the development of the IEP prior to the meeting.</li> </ul> <p>If a required member of the ARD committee as identified in I.A.3. through I.A.6. did not attend the meeting, and if the parent did not agree <u>in writing</u> to that member's lack of attendance or excusal from the meeting, noncompliance has been identified.</p>

**Investigatory Topic: Properly Constituted ARD Committee**

<b>Requirement</b>	<b>Investigatory Questions</b>	<b>Investigatory Considerations</b>
<p>(2) If the child does not attend the IEP Team meeting, the public agency must take other steps to ensure that the child's preferences and interests are considered.</p> <p>(3) To the extent appropriate, with the consent of the parents or a child who has reached the age of majority, in implementing the requirements of paragraph (b)(1) of this section, the public agency must invite a representative of any participating agency that is likely to be responsible for providing or paying for transition services.</p> <p>(c) Determination of knowledge and special expertise. The determination of the knowledge or special expertise of any individual described in paragraph (a)(6) of this section must be made by the party (parents or public agency) who invited the individual to be a member of the IEP Team.</p>	<p>5. A <b>representative of the LEA</b> who is</p> <ol style="list-style-type: none"> <li>a. qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;</li> <li>b. knowledgeable about the general curriculum; and</li> <li>c. knowledgeable about the availability of resources of the LEA.</li> </ol> <p>6. An <b>individual who can interpret the instructional implications of evaluation results</b>, who may be a member of the team described in I.A.3. through I.A.7.</p> <p>7. At the discretion of the parent or the LEA, <b>other individuals who have knowledge or special expertise regarding the child</b>, including related services personnel as appropriate.</p> <p>8. <b>the student</b>, if appropriate.</p> <p>B. If the purpose of the current ARD committee meeting was to consider the student's transition services needs or needed transition services, or if the student is 16 years of age or older, there is evidence of the following:</p> <ol style="list-style-type: none"> <li>1. The student was invited;</li> <li>2. If the student did not attend, the LEA took other steps to ensure that the student's preferences and interests were considered;</li> <li>3. The LEA invited a representative(s) of any other agency that is likely to be responsible for providing or paying for transition services; and</li> </ol>	<p>An LEA may designate another LEA member of the ARD committee to also serve as the agency representative, if the criteria in I.A.5. a.-c. are satisfied.</p> <p>The determination of the knowledge or special expertise of any individual described in I.A.7. must be made by the party (parents or LEA) who invited the individual to be a member of the ARD committee.</p> <p>If the LEA does not have documentation that I.B.1. through I.B.3. were implemented for a student, noncompliance has been identified.</p>

**Investigatory Topic: Properly Constituted ARD Committee**

Requirement	Investigatory Questions	Investigatory Considerations
<p>(d) Designating a public agency representative. A public agency may designate a public agency member of the IEP team to also serve as the agency representative, if the criteria in paragraph (a)(4) of this section are satisfied.</p> <p><b>19 TAC §75.1023. Provisions for Individuals Who Are Members of Special Populations. (excerpt)</b></p> <p>(d)(1) The ARD committee shall include a representative from career and technology education, preferably the teacher, when considering initial or continued placement of a student in career and technology education.</p> <p><b>19 TAC §89.1230. Eligible Students with Disabilities. (excerpt)</b></p> <p>(b) A professional member of the language proficiency assessment committee shall serve on the admission, review, and dismissal (ARD) committee of each limited English proficient student who qualifies for services in the special education program.</p>	<p>C. If the ARD committee is considering initial or continued placement in the career and technical education (CTE) program, is there evidence that a representative from CTE, preferably the teacher, is included at the ARD committee meeting?</p> <p>D. If the student is limited English proficient, is there evidence that a professional member of the language proficiency assessment committee (LPAC) is included at the ARD committee meeting?</p> <p>E. Is there evidence that, when conducting an ARD committee meeting without the parent’s attendance, the LEA has recorded its attempts to arrange a mutually agreed upon time and place or establish an alternative means for conducting the meeting, and does the evidence of attempts include information such as:</p> <ol style="list-style-type: none"> <li>1. Documented efforts to use alternative means of meeting participation, such as video conferences or conference calls;</li> <li>2. Detailed records of telephone calls made or attempted and the results of those calls;</li> <li>3. Copies of correspondence sent to the parents and any responses received; or</li> <li>4. Detailed records of visits made to the parent’s home or place of employment and the results of those visits?</li> </ol> <p>If parent(s) are not in attendance, and if evidence of the LEA’s attempts to secure parent participation is not available, noncompliance has been identified.</p>	<p>If a required member of the ARD committee as identified in I.C. through I.D. did not attend the meeting, noncompliance has been identified.</p>

**Investigatory Topic: Properly Constituted ARD Committee**

<b>Requirement</b>	<b>Investigatory Questions</b>	<b>Investigatory Considerations</b>
<p><b>34 CFR §300.322. Parent participation. (excerpt)</b></p> <p>(d) Conducting an IEP Team meeting without a parent in attendance. A meeting may be conducted without a parent in attendance if the public agency is unable to convince the parents that they should attend. In this case, the public agency must keep a record of its attempts to arrange a mutually agreed on time and place, such as—</p> <p>(1) Detailed records of telephone calls made or attempted and the results of those calls;</p> <p>(2) Copies of correspondence sent to the parents and any responses received; and</p> <p>(3) Detailed records of visits made to the parent's home or place of employment and the results of those visits.</p>		

## Investigatory Topic: Properly Constituted ARD Committee

### Other Requirements

#### **34 CFR §300.321. IEP Team. (excerpt)**

(e) IEP Team attendance.

- (1) A member of the IEP Team described in paragraph (a)(2) through (a)(5) of this section is not required to attend an IEP Team meeting, in whole or part, if the parent of a child with a disability and the public agency agree, in writing, that the attendance of the member is not necessary because the member's area of the curriculum or related services is not being modified or discussed in the meeting.
- (2) A member of the IEP Team described in paragraph (e)(1) of this section may be excused from attending an IEP Team meeting, in whole or part, when the meeting involves a modification to or discussion of the member's area of the curriculum or related services, if—
  - (i) The parent, in writing, and the public agency consent to the excusal; and
  - (ii) The member submits, in writing to the parent and the IEP Team, input into the development of the IEP prior to the meeting.

#### **34 CFR §300.520. Transfer of parental rights at age of majority. (excerpt)**

- (a) General. A State may provide that, when a child with a disability reaches the age of majority under State law that applies to all children (except for a child with a disability who has been determined to be incompetent under State law)—
- (1) (i) The public agency must provide any notice required by this part to both the child and the parents; and
  - (ii) All other rights accorded to parents under Part B of the Act transfer to the child;
  - (2) All rights accorded to parents under Part B of the Act transfer to children who are incarcerated in an adult or juvenile, State or local correctional institution; and
  - (3) Whenever a State provides for the transfer of rights under this part pursuant to paragraph (a)(1) or (a)(2) of this section, the agency must notify the child and the parents of the transfer of rights.

#### **TEC §29.017. Transfer of Parental Rights at Age of Majority.**

- (a) A student with a disability who is 18 years of age or older or whose disabilities of minority have been removed for general purposes under Chapter 31, Family Code, shall have the same right to make educational decisions as a student without a disability, except that the school district shall provide any notice required by this subchapter or 20 U.S.C. Section 1415 to both the student and the parents. All other rights accorded to parents under this subchapter or 20 U.S.C. Section 1415 transfer to the student.
- (b) All rights accorded to parents under this subchapter or 20 U.S.C. Section 1415 transfer to students who are incarcerated in an adult or juvenile, state or local correctional institution.
- (c) In accordance with 34 C.F.R. Section 300.517, the school district shall notify the student and the parents of the transfer of rights under this section.
- (d) The commissioner shall adopt rules implementing the provisions of 34 C.F.R. Section 300.517(b).

## Investigatory Topic: Properly Constituted ARD Committee

### Other Requirements (continued)

#### 19 TAC §89.1049. Parental Rights Regarding Adult Students.

- (a) In accordance with 34 Code of Federal Regulations (CFR), §300.320(c) and §300.520, and Texas Education Code (TEC), §29.017, beginning at least one year before a student reaches 18 years of age, the student's individualized education program (IEP) must include a statement that the student has been informed that, unless the student's parent or other individual has been granted guardianship of the student under the Probate Code, Chapter XIII, Guardianship, all rights granted to the parent under the Individuals with Disabilities Education Act (IDEA), Part B, other than the right to receive any notice required under IDEA, Part B, will transfer to the student upon reaching age 18. After the student reaches the age of 18, except as provided by subsection (b) of this section, the school district shall provide any notice required under IDEA, Part B, to both the adult student and the parent.
- (b) In accordance with 34 CFR, §300.520(a)(2), and TEC, §29.017(a), all rights accorded to a parent under IDEA, Part B, including the right to receive any notice required by IDEA, Part B, will transfer to an 18-year-old student who is incarcerated in an adult or juvenile, state or local correctional institution unless the student's parent or other individual has been granted guardianship of the student under the Probate Code, Chapter XIII, Guardianship.
- (c) In accordance with 34 CFR, §300.520(a)(3), a school district must notify in writing the adult student and parent of the transfer of parental rights, as described in subsections (a) and (b) of this section, at the time the student reaches the age of 18. This notification is separate and distinct from the requirement that the student's IEP include a statement relating to the transfer of parental rights beginning at least one year before the student reaches the age of 18. This notification is not required to contain the elements of notice referenced in 34 CFR, §300.503, but must include a statement that parental rights have transferred to the adult student and provide contact information for the parties to use in obtaining additional information.
- (d) A notice under IDEA, Part B, which is required to be given to an adult student and parent does not create a right for the parent to consent to or participate in the proposal or refusal to which the notice relates. For example, a notice of an admission, review, and dismissal (ARD) committee meeting does not constitute invitation to, or create a right for, the parent to attend the meeting. However, in accordance with 34 CFR, §300.321(a)(6), the adult student or the school district may invite individuals who have knowledge or special expertise regarding the student, including the parent.
- (e) Nothing in this section prohibits a valid power of attorney from being executed by an individual who holds rights under IDEA, Part B.

#### 19 TAC §89.1050. The Admission, Review, and Dismissal (ARD) Committee. (excerpt)

- (c) ARD committee membership.
  - (1) ARD committees shall include those persons identified in 34 CFR, §300.321(a), as follows:
    - (A) the parent(s) of the child;
    - (B) not less than one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);
    - (C) not less than one special education teacher of the child, or where appropriate, not less than one special education provider of the child;
    - (D) a representative of the school district who:

**Investigatory Topic: Properly Constituted ARD Committee**

**Other Requirements (continued)**

- (i) is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;
  - (ii) is knowledgeable about the general education curriculum; and
  - (iii) is knowledgeable about the availability of resources of the school district;
- (E) an individual who can interpret the instructional implications of evaluation results, who may be a member of the team described in subparagraphs (B)-(F) of this paragraph;
- (F) at the discretion of the parent or the school district, other individuals who have knowledge or special expertise regarding the child, including related services personnel, as appropriate; and
- (G) whenever appropriate, the child with a disability.
- (2) The regular education teacher who serves as a member of a student's ARD committee should be a regular education teacher who is responsible for implementing a portion of the student's IEP.
- (3) The special education teacher or special education provider that participates in the ARD committee meeting in accordance with 34 CFR, §300.321(a)(3), must be appropriately certified or licensed as required by 34 CFR, §300.18 and §300.156.
- (4) If the student is:
- (A) a student with a suspected or documented visual impairment, the ARD committee shall include a teacher who is certified in the education of students with visual impairments;
  - (B) a student with a suspected or documented auditory impairment, the ARD committee shall include a teacher who is certified in the education of students with auditory impairments; or
  - (C) a student with suspected or documented deaf-blindness, the ARD committee shall include a teacher who is certified in the education of students with visual impairments and a teacher who is certified in the education of students with auditory impairments.
- (5) An ARD committee member, including a member described in subsection (c)(4) of this section, is not required to attend an ARD committee meeting if the conditions of either 34 CFR, §300.321(e)(1), regarding attendance, or 34 CFR, §300.321(e)(2), regarding excusal, have been met.

**Investigatory Topic: Surrogate Parents and Foster Parents**

Requirement	Investigatory Questions	Investigatory Considerations
<p><b>34 CFR §300.519. Surrogate parents.</b></p> <p>(a) General. Each public agency must ensure that the rights of a child are protected when—</p> <p>(1) No parent (as defined in §300.30) can be identified;</p> <p>(2) The public agency, after reasonable efforts, cannot locate a parent;</p> <p>(3) The child is a ward of the State under the laws of that State; or</p> <p>(4) The child is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(6)).</p> <p>(b) Duties of public agency. The duties of a public agency under paragraph (a) of this section include the assignment of an individual to act as a surrogate for the parents. This must include a method—</p> <p>(1) For determining whether a child needs a surrogate parent; and</p> <p>(2) For assigning a surrogate parent to the child.</p>	<p>II. Is there evidence that when a surrogate parent is required to be assigned, the LEA does the following:</p> <p>A. Before assigning a surrogate parent, the LEA determines that one of the following is true:</p> <ol style="list-style-type: none"> <li>1. no parent can be identified;</li> <li>2. the LEA, after reasonable efforts, cannot discover the whereabouts of a parent;</li> <li>3. the student is a ward of the State; or</li> <li>4. the student is an unaccompanied homeless youth as defined in section 725(6) of the McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(6)).</li> </ol> <p>If the LEA assigned a surrogate parent to an adult student who has retained rights to represent him- or herself, noncompliance has been identified for item II.A. and I.A.1. If the LEA has assigned a surrogate parent to a student with parents who retain parental rights, noncompliance has been identified for item II.A. and I.A.2.</p> <p>B. When selecting and assigning a surrogate parent to represent a student with disabilities, the LEA must have evidence of the following:</p> <ol style="list-style-type: none"> <li>1. the individual is not an employee of the TEA, the LEA, or any other agency that is involved in the education or care of the child;</li> <li>2. the individual has no personal or professional interest that conflicts with the interest of the child he or she represents; and</li> <li>3. the individual has knowledge and skills that ensure adequate representation of the child.</li> </ol> <p>If the LEA has assigned a surrogate parent who does not meet the requirements of II.B., noncompliance has been identified.</p>	<p>Each LEA shall develop and implement procedures for conducting an analysis of whether a potential surrogate parent has a personal or professional interest that conflicts with the interests of his/her child.</p> <p>Prior to October 13, 2006, an LEA had the option to select as a surrogate parent a person who was an employee of a nonpublic agency that provided only non-educational care for the child and who met the standards in II.B.1 through II.B.3. Effective October 13, 2006, the new federal regulation concerning surrogate parents, 34 CFR §300.519, eliminated this option. At 70 Federal Register 35809, the U.S. Department of Education indicated that this option was being eliminated “to ensure that surrogates do not have interests that conflict with the interest of the child.” Therefore, an employee of an RF cannot serve as the surrogate parent for students residing within that RF.</p> <p>A person who otherwise qualifies to be a surrogate is not an employee of the LEA solely because he or she receives payment from the LEA for rendering services as a surrogate parent (e.g., travel costs are reimbursed, etc.)</p>

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Requirement	Investigatory Questions	Investigatory Considerations
<p>(c) Wards of the State. In the case of a child who is a ward of the State, the surrogate parent alternatively may be appointed by the judge overseeing the child's case, provided that the surrogate meets the requirements in paragraphs (d)(2)(i) and (e) of this section.</p> <p>(d) Criteria for selection of surrogate parents.</p> <p>(1) The public agency may select a surrogate parent in any way permitted under State law.</p> <p>(2) Public agencies must ensure that a person selected as a surrogate parent—</p> <p>(i) Is not an employee of the SEA, the LEA, or any other agency that is involved in the education or care of the child;</p> <p>(ii) Has no personal or professional interest that conflicts with the interest of the child the surrogate parent represents; and</p> <p>(iii) Has knowledge and skills that ensure adequate representation of the child.</p>	<p>C. Is there evidence that the LEA assigned a surrogate parent within 30 days after determination that the student needed a surrogate parent?</p> <p>D. Is there evidence that the individual selected to serve as a surrogate parent has:</p> <ol style="list-style-type: none"> <li>1. Visited the student and the student's school.</li> <li>2. Consulted with persons involved in the student's education, including teachers, caseworkers, court-appointed volunteers, guardians ad litem, attorneys ad litem, foster parents, and caretakers.</li> <li>3. Reviewed the child's educational records.</li> <li>4. Attended meetings of the child's ARD committee.</li> <li>5. Exercised independent judgment in pursuing the child's interests.</li> <li>6. Exercised the child's due process rights under applicable state and federal law.</li> </ol> <p>The individual assigned must satisfy the requirements listed in II.D.1.-5., and may have implemented II.D.6., when appropriate. If a surrogate has not implemented a required responsibility, noncompliance has been identified.</p> <p>If the number of students assigned to an individual surrogate parent impacts the ability of the surrogate to adequately represent the interests of the student as referenced in II.D. above, noncompliance has been identified.</p>	<p>The individual assigned must implement the responsibilities listed in II.D.1.-5., and may have implemented II.D.6., when appropriate.</p> <p>Timing of assignment in relationship to a TEA visit may impact the surrogate's ability to implement certain responsibilities. If 30 days have not yet elapsed as referenced in II.C., a surrogate parent may not have had the opportunity to implement the requirements reflected in II.D.</p> <p>If documentation is not available, TEA personnel may be required to interview the individual assigned to serve as the surrogate parent to determine if responsibilities have been implemented.</p> <p>If the individual assigned to serve as a surrogate parent represents four (4) or more RF students with disabilities at the same time, TEA personnel must interview the individual and determine the extent to which the individual has fulfilled their required responsibilities before determining compliance with II.D. and I.A.2.</p>

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Requirement	Investigatory Questions	Investigatory Considerations
<p>(e) Non-employee requirement; compensation. A person otherwise qualified to be a surrogate parent under paragraph (d) of this section is not an employee of the agency solely because he or she is paid by the agency to serve as a surrogate parent.</p> <p>(f) Unaccompanied homeless youth. In the case of a child who is an unaccompanied homeless youth, appropriate staff of emergency shelters, transitional shelters, independent living programs, and street outreach programs may be appointed as temporary surrogate parents without regard to paragraph (d)(2)(i) of this section, until a surrogate parent can be appointed that meets all of the requirements of paragraph (d) of this section.</p> <p>(g) Surrogate parent responsibilities. The surrogate parent may represent the child in all matters relating to—</p> <p>(1) The identification, evaluation, and educational placement of the child; and</p> <p>(2) The provision of FAPE to the child.</p>	<p>F. Is there evidence that the individual selected to serve as a surrogate parent has completed the following:</p> <ol style="list-style-type: none"> <li>1. A training program, within 90 days of assignment as a surrogate parent.</li> <li>2. The training program includes an explanation of the provisions of federal and state laws, rules, and regulations relating to:               <ol style="list-style-type: none"> <li>a. The identification of a student with a disability;</li> <li>b. The collection of evaluation and reevaluation data relating to a student with a disability;</li> <li>c. The ARD committee process;</li> <li>d. The development of an IEP and, for a student who is at least 16 years of age, the inclusion of transition planning activities in the IEP;</li> <li>e. The determination of least restrictive environment;</li> <li>f. The implementation of an IEP;</li> <li>g. The Procedural Safeguards; and</li> <li>h. The sources that the surrogate parent may contact to obtain assistance in understanding the provisions of federal and state laws, rules, and regulations relating to students with disabilities.</li> </ol> </li> <li>3. The training program was provided in the native language or other mode of communication used by the individual who is to serve as a surrogate parent, when appropriate.</li> </ol> <p>If a surrogate has not received training as required in II.F., noncompliance has been identified. If, after 90 days have elapsed as referenced in II.F.1., a surrogate parent has not been trained, noncompliance has been identified not only in II.F. but also in I.A.2. related to parent attendance at ARD.</p>	<p>All training components listed must be included in the training and the training must be completed within the timeline. It is expected that the training program will provide an opportunity for interaction between the LEA and the person trained to serve in the role.</p>

**Investigatory Topic: Surrogate Parents and Foster Parents**

Requirement	Investigatory Questions	Investigatory Considerations
(h) SEA responsibility. The SEA must make reasonable efforts to ensure the assignment of a surrogate parent not more than 30 days after a public agency determines that the child needs a surrogate parent.		

Other Requirements
<p><b>TEC §29.001. Statewide Plan. (excerpt)</b></p> <p>The agency shall develop, and modify as necessary, a statewide design, consistent with federal law, for the delivery of services to children with disabilities in this state that includes rules for the administration and funding of the special education program so that a free appropriate public education is available to all of those children between the ages of three and 21. The statewide design shall include the provision of services primarily through school districts and shared services arrangements, supplemented by regional education service centers. The agency shall also develop and implement a statewide plan with programmatic content that includes procedures designed to:</p> <ul style="list-style-type: none"> <li>(10) ensure that an individual assigned to act as a surrogate parent for a child with a disability, as provided by 20 U.S.C. Section 1415(b) and its subsequent amendments, is required to: <ul style="list-style-type: none"> <li>(A) complete a training program that complies with minimum standards established by agency rule;</li> <li>(B) visit the child and the child's school;</li> <li>(C) consult with persons involved in the child's education, including teachers, caseworkers, court-appointed volunteers, guardians ad litem, attorneys ad litem, foster parents, and caretakers;</li> <li>(D) review the child's educational records;</li> <li>(E) attend meetings of the child's admission, review, and dismissal committee;</li> <li>(F) exercise independent judgment in pursuing the child's interests; and</li> <li>(G) exercise the child's due process rights under applicable state and federal law.</li> </ul> </li> </ul>

**Investigatory Topic: Surrogate Parents and Foster Parents**

Requirement	Investigatory Questions	Investigatory Considerations
<p><b>34 CFR §300.30 Parent</b></p> <p>(a) Parent means—</p> <p>(1) A biological or adoptive parent of a child;</p> <p>(2) A foster parent, unless State law, regulations, or contractual obligations with a State or local entity prohibit a foster parent from acting as a parent;</p> <p>(3) A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the State if the child is a ward of the State);</p> <p>(4) An individual acting in the place of a biological or adoptive parent (including a grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or</p> <p>(5) A surrogate parent who has been appointed in accordance with §300.519 or section 639(a)(5) of the Act.</p>	<p>G. Is there evidence that, when the student with a disability is represented by a foster parent, the LEA does one of the following:</p> <ol style="list-style-type: none"> <li>1. assigns the foster parent as the student's <b>parent</b>. If YES, skip to II.H. and complete II.H. and II.I. If NO, go to II.G.2.</li> <li>2. assigns the foster parent as the <b>surrogate parent</b>. If YES, skip to II.I. If NO, review II.G.3 below.</li> <li>3. denies the foster parent the right to serve as parent or surrogate parent and assigns another individual to serve as the surrogate parent. If YES, skip to II.J., and go back to II.A. and conduct a surrogate parent analysis for the appointed surrogate parent.</li> </ol> <p>H. Is there evidence that the foster parent selected to represent the student as the <b>parent</b> meets the following requirements:</p> <ol style="list-style-type: none"> <li>1. the Department of Family and Protective Services (DFPS) is appointed as the temporary or permanent managing conservator of the student;</li> <li>2. the student has been placed with the foster parent for at least 60 days;</li> <li>3. the foster parent agrees to participate in making educational decisions on the student's behalf;</li> <li>4. the foster parent completes a training program for surrogate parents that complies with minimum standards established by agency rule (go to II.I. to complete compliance review); and</li> <li>5. the foster parent has no interest that conflicts with the student's interests.</li> </ol>	<p>If the requirements of II.H. are not met, the foster parent may not serve as the student's parent for the purposes of special education decision-making. However, in these circumstances, the foster parent still may be chosen as the student's surrogate parent if all applicable requirements for serving as a surrogate parent are met.</p> <p>Each LEA shall develop and implement procedures for conducting an analysis of whether a foster parent or potential surrogate parent has an interest that conflicts with the interests of his/her child. A foster parent in a home which is verified by the DFPS or a child-placing agency shall not be deemed to have a financial conflict of interest by virtue of serving as the foster parent in that home. These homes include, but are not limited to, basic, habilitative, primary medical, or therapeutic foster or foster group homes. In addition, issues concerning quality of care of the child do not constitute a conflict of interest. Concerns regarding quality of care of the child should be communicated, and may be statutorily required to be reported, to the DFPS.</p>

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Requirement	Investigatory Questions	Investigatory Considerations
<p>(b) (1) Except as provided in paragraph (b)(2) of this section, the biological or adoptive parent, when attempting to act as the parent under this part and when more than one party is qualified under paragraph (a) of this section to act as a parent, must be presumed to be the parent for purposes of this section unless the biological or adoptive parent does not have legal authority to make educational decisions for the child.</p> <p>(2) If a judicial decree or order identifies a specific person or persons under paragraphs (a)(1) through (4) of this section to act as the “parent” of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the “parent” for purposes of this section.</p>	<p>I. Is there evidence that the foster parent selected to serve as a <b>parent</b> or <b>surrogate parent</b> has completed the following:</p> <ol style="list-style-type: none"> <li>1. A training program, within 90 days of assignment as a surrogate parent?</li> <li>2. The training program includes an explanation of the provisions of federal and state laws, rules, and regulations relating to:               <ol style="list-style-type: none"> <li>a. The identification of a student with a disability;</li> <li>b. The collection of evaluation and reevaluation data relating to a student with a disability;</li> <li>c. The ARD committee process;</li> <li>d. The development of an IEP and, for a student who is at least 16 years of age, the inclusion of transition planning activities in the IEP;</li> <li>e. The determination of least restrictive environment;</li> <li>f. The implementation of an IEP;</li> <li>g. The Procedural Safeguards; and</li> <li>h. The sources that the surrogate parent may contact to obtain assistance in understanding the provisions of federal and state laws, rules, and regulations relating to students with disabilities.</li> </ol> </li> <li>3. The training program was provided in the native language or other mode of communication used by the individual who is to serve as a surrogate parent, when appropriate?</li> </ol> <p>If a foster parent has not received training as required in II.1., noncompliance has been identified. If, after 90 days have elapsed as referenced in II.1.1., a foster parent has not been trained, noncompliance has been identified not only in II.1. but also in I.A.2. related to parent attendance at ARD.</p>	<p>Once an individual has completed a training program conducted or provided by or through the DFPS, an LEA, education service center, or any entity that receives federal funds to provide IDEA training to parents, the individual shall not be required by any LEA to complete additional training in order to continue serving as the student's surrogate parent or to serve as the surrogate parent for other students with disabilities.</p> <p>LEAs may provide ongoing or additional training to surrogate parents and/or parents; however, an LEA cannot deny an individual who has received the required training from serving as a surrogate parent on the grounds that the individual has not been trained.</p>

**Investigatory Topic: Surrogate Parents and Foster Parents**

<b>Requirement</b>	<b>Investigatory Questions</b>	<b>Investigatory Considerations</b>
<p><b>TEC §29.015. Foster Parents.</b></p> <p>(a) The school district shall give preferential consideration to a foster parent of a child with a disability when assigning a surrogate parent for the child.</p> <p>(b) A foster parent may act as a parent of a child with a disability, as authorized under 20 U.S.C. Section 1415(b) and its subsequent amendments, if:</p> <p>(1) the Department of Protective and Regulatory Services is appointed as the temporary or permanent managing conservator of the child;</p> <p>(2) the child has been placed with the foster parent for at least 60 days;</p> <p>(3) the foster parent agrees to:</p> <p>(A) participate in making educational decisions on the child's behalf; and</p> <p>(B) complete a training program for surrogate parents that complies with minimum standards established by agency rule; and</p>	<p>J. If the LEA denied the foster parent the right to serve as the parent or surrogate parent, is there evidence the LEA provided the foster parent with written notice:</p> <ol style="list-style-type: none"> <li>1. within seven calendar days after the date on which the decision is made;</li> <li>2. that specifies the reason(s) the foster parent is being denied the right to serve as the surrogate parent or parent (the notice must specifically explain the interests of the foster parent that conflict with the interests of his/her child); and</li> <li>3. that also informs the foster parent of his/her right to file a complaint with the Texas Education Agency in accordance with 34 CFR, §§300.151–300.153, relating to complaint procedures.</li> </ol>	

**Investigatory Topic: Surrogate Parents and Foster Parents**

Requirement	Investigatory Questions	Investigatory Considerations
<p>(4) the foster parent has no interest that conflicts with the child's interests.</p> <p>(c) A foster parent who is denied the right to act as a surrogate parent or a parent under this section by a school district may file a complaint with the agency in accordance with federal law and regulations.</p>		

Other Requirements
<p><b>19 TAC §89.1047. Procedures for Surrogate and Foster Parents.</b></p> <p>(a) An individual assigned to act as a surrogate parent for a student with a disability, in accordance with 34 Code of Federal Regulations (CFR), §300.519, relating to surrogate parents, must comply with the requirements specified in Texas Education Code (TEC), §29.001(10).</p> <p>(1) Pursuant to TEC, §29.001(10)(A), an individual assigned to act as a surrogate parent must complete a training program in which the individual is provided with an explanation of the provisions of federal and state laws, rules, and regulations relating to:</p> <ul style="list-style-type: none"> <li>(A) the identification of a student with a disability;</li> <li>(B) the collection of evaluation and re-evaluation data relating to a student with a disability;</li> <li>(C) the admission, review, and dismissal (ARD) committee process;</li> <li>(D) the development of an individualized education program (IEP), including the consideration of transition services for a student who is at least 16 years of age;</li> <li>(E) the determination of least restrictive environment;</li> <li>(F) the implementation of an IEP;</li> <li>(G) the procedural rights and safeguards available under 34 CFR, §§300.148, 300.151-300.153, 300.229, 300.300, 300.500-300.520, 300.530-300.537, and 300.610-300.627, relating to the issues described in 34 CFR, §300.504(c); and</li> <li>(H) the sources that the surrogate parent may contact to obtain assistance in understanding the provisions of federal and state laws, rules, and regulations relating to students with disabilities.</li> </ul>

## Investigatory Topic: Surrogate Parents and Foster Parents

### Other Requirements (continued)

- (2) The training program described in subsection (a)(1) of this section must be provided in the native language or other mode of communication used by the individual who is to serve as a surrogate parent.
  - (3) The individual assigned to act as a surrogate parent must complete the training program described in subsection (a)(1) of this section within 90 calendar days after the date of initial assignment as a surrogate parent. Once an individual has completed a training program conducted or provided by or through the Texas Department of Family and Protective Services (TDFPS), a school district, an education service center, or any entity that receives federal funds to provide Individuals with Disabilities Education Act (IDEA) training to parents, the individual shall not be required by any school district to complete additional training in order to continue serving as the student's surrogate parent or to serve as the surrogate parent for other students with disabilities. School districts may provide ongoing or additional training to surrogate parents and/or parents; however, a district cannot deny an individual who has received the training as described in subsection (a)(1) of this section from serving as a surrogate parent on the grounds that the individual has not been trained.
  - (4) A school district should provide or arrange for the provision of the training program described in subsection(a)(1) of this section prior to assigning an individual to act as a surrogate parent but no later than 90 calendar days after assignment.
- (b) A foster parent may act as a parent of a child with a disability, in accordance with 34 CFR, §300.30, relating to the definition of parent, if he/she complies with the requirements of TEC, §29.015(b), relating to foster parents, including the completion of the training program described in subsection(a)(1) of this section.
- (1) The foster parent must complete the training program described in subsection (a)(1) of this section within 90 calendar days after the date of initial assignment as the parent. Once a foster parent has completed a training program conducted or provided by the TDFPS, a school district, an education service center, or any entity that receives federal funds to provide IDEA training to parents, the foster parent shall not be required by any school district to complete additional training in order to continue serving as his/her child's surrogate parent or parent or to serve as the surrogate parent or parent for other students with disabilities. School districts may provide ongoing or additional training to foster parents and/or parents; however, a district cannot deny an individual who has received the training as described in subsection (a)(1) of this section from serving as the parent on the grounds that the individual has not been trained.
  - (2) A school district should provide or arrange for the provision of the training program described in subsection (a)(1) of this section prior to assigning a foster parent to act as a parent but no later than 90 calendar days after assignment.
- (c) Each school district or shared services arrangement shall develop and implement procedures for conducting an analysis of whether a foster parent or potential surrogate parent has an interest that conflicts with the interests of his/her child. A foster parent in a home which is verified by the TDFPS or a child-placing agency shall not be deemed to have a financial conflict of interest by virtue of serving as the foster parent in that home. These homes include, but are not limited to, basic, habilitative, primary medical, or therapeutic foster or foster group homes. In addition, issues concerning quality of care of the child do not constitute a conflict of interest. Concerns regarding quality of care of the child should be communicated, and may be statutorily required to be reported, to TDFPS.
- (d) If a school district denies a foster parent the right to serve as a surrogate parent or parent, the school district must provide the foster parent with written notice of such denial within seven calendar days after the date on which the decision is made. The written notice shall:
- (1) specify the reason(s) the foster parent is being denied the right to serve as the surrogate parent or parent (the notice must specifically explain the interests of the foster parent that conflict with the interests of his/her child); and
  - (2) inform the foster parent of his/her right to file a complaint with the Texas Education Agency in accordance with 34CFR, §§300.151–300.153, relating to complaint procedures.

**Investigatory Topic: Current Evaluation**

Requirement	Investigatory Questions	Investigatory Considerations
<p><b>34 CFR §300.303. Reevaluation.</b></p> <p>(a) General. A public agency must ensure that a reevaluation of each child with a disability is conducted in accordance with §§300.304 through 300.311—</p> <p>(1) If the public agency determines that the educational or related services needs, including improved academic achievement and functional performance, of the child warrant a reevaluation; or</p> <p>(2) If the child's parent or teacher requests a reevaluation.</p> <p>(b) Limitation. A reevaluation conducted under paragraph (a) of this section—</p> <p>(1) May occur not more than once a year, unless the parent and the public agency agree otherwise; and</p> <p>(2) Must occur at least once every 3 years, unless the parent and the public agency agree that a reevaluation is unnecessary.</p> <p><b>34 CFR §300.324. Development, review, and revision of IEP. (excerpt)</b></p> <p>(a) Development of IEP.</p> <p>(1) General. In developing each child's IEP, the IEP team must consider—</p>	<p>III. Is there evidence that the Individualized Education Program (IEP) was developed based upon current evaluation data?</p> <p>A. Current evaluation data are evidenced if:</p> <p>1. The student with a disability has a full and individual evaluation (FIE) that is not more than 3 years old.</p> <p align="center"><b>OR</b></p> <p>2. Documentation exists in the eligibility folder to support that a group of individuals and other qualified professionals conducted a review of existing data and determined that no additional data were needed and the reasons for it;</p> <p align="center"><b>and</b></p> <p>3. The public agency notified the child's parents of the determination not to test and the reasons for it; and of the right of the parents to request an evaluation.</p> <p>If the eligibility folder of the student has a current evaluation as referenced in III.1. above, the review is complete and compliance has been identified.</p> <p>If there is documentation to support the decision that additional testing was not required and documentation also supports that parents were informed and did not request an evaluation as referenced in III.2. and III.3 above, compliance has been identified.</p> <p>If the LEA does not have documentation related to the decision not to test, noncompliance has been identified.</p> <p>If the LEA does not document that parents were notified of the determination not to test and their right to request an evaluation, noncompliance has been identified.</p>	<p>The determination regarding whether a reevaluation is current must be based on the “anniversary date” of the last evaluation conducted. The anniversary date is defined as the “on or before date” of the last evaluation. For a reevaluation, the documentation must verify that the previous evaluation was conducted not more than three years prior to the reevaluation.</p> <p>An ARD meeting is not required to determine that additional data are not needed in deciding whether a student continues to be a student with a disability with a need for special education services.</p>

**Investigatory Topic: Current Evaluation**

Requirement	Investigatory Questions	Investigatory Considerations
<p>(i) The strengths of the child;</p> <p>(ii) The concerns of the parents for enhancing the education of their child;</p> <p>(iii) The results of the initial or most recent evaluation of the child; and</p> <p>(iv) The academic, developmental, and functional needs of the child.</p> <p><b>34 CFR §300.304. Evaluation procedures. (excerpt)</b></p> <p>(b) Conduct of evaluation. In conducting the evaluation, the public agency must—</p> <p>(1) Use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information about the child, including information provided by the parent, that may assist in determining—</p> <p>(i) Whether the child is a child with a disability under §300.8; and</p> <p>(ii) The content of the child's IEP, including information related to enabling the child to be involved in and progress in the general education curriculum (or for a preschool child, to participate in appropriate activities);</p>	<p>B. Is there evidence that the most current FIE was conducted by appropriately credentialed/certified evaluation personnel?</p> <p>1. Evidence that personnel assigned to conduct the FIE were appropriately credentialed and certified; and</p> <p>2. Evidence that the FIE contains the signatures of multidisciplinary team members.</p> <p>If the student was evaluated by credentialed/certified personnel, compliance has been identified.</p> <p>If student was not evaluated by credentialed/certified personnel, noncompliance has been identified.</p> <p>C. Is there evidence that the evaluation is sufficiently comprehensive to identify all of the student's special education and related services needs?</p> <p>1. Evidence that the student was tested in all academic and nonacademic areas related to the suspected disability, including, if appropriate:</p> <p>a. physical (such as health, vision, hearing, motor abilities etc.);</p> <p>b. communicative status;</p> <p>c. emotional/social status;</p> <p>d. general intelligence;</p> <p>e. academic/functional performance.</p> <p>2. Evidence that the FIE was conducted by required members of the multidisciplinary team and that the report contains the signatures of multidisciplinary team members, as appropriate.</p> <p>If the FIE addresses all areas of suspected disability, compliance has been identified.</p> <p>If the FIE does not address all areas of suspected disability or if not all required team members participated, noncompliance has been identified.</p>	<p>Evaluation personnel may include, but are not limited to, Educational Diagnosticians, Licensed Specialists in School Psychology, Occupational Therapists, Physical Therapists, and Speech Pathologists.</p> <p>The evaluation would include information on the areas listed in III.C.1., if appropriate. For example, an evaluation for a nonverbal student would include an evaluation of the communicative status of the student.</p> <p>Additional team members are necessary when conducting an evaluation to determine the presence of a learning disability. Additional group members include the student's regular teacher, or, if the child does not have a regular teacher, a regular classroom teacher qualified to teach a student of his or her age; or for a child of less than school age, an individual qualified to teach a child of his or her age and at least one person qualified to conduct individual diagnostic examinations of children, such as a school psychologist, speech-language pathologist, or remedial reading teacher.</p>

**Investigatory Topic: Current Evaluation**

Requirement	Investigatory Questions	Investigatory Considerations
<p>(2) Not use any single measure or assessment as the sole criterion for determining whether a child is a child with a disability and for determining an appropriate educational program for the child; and</p> <p>(3) Use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.</p> <p>(c) Other evaluation procedures. Each public agency must ensure that—</p> <p>(1) Assessments and other evaluation materials used to assess a child under this part—</p> <p>(iv) Are administered by trained and knowledgeable personnel;</p> <p>(2) Assessments and other evaluation materials include those tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.</p> <p>(4) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;</p>	<p>D. Is there evidence that the ARD committee draws upon required information to determine whether the student is a student with a disability and the student’s educational need for special education and related services?</p> <p>1. The ARD committee, in interpreting evaluation data for the purpose of determining eligibility and educational need, draws upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations as well as information about the student’s physical condition, social or cultural background, and adaptive behavior.</p> <p align="center"><b>and</b></p> <p>2. The ARD committee ensures that information obtained from the sources listed above is documented and carefully considered.</p> <p>3. If it is determined by the ARD committee that the student is a student with a disability with an educational need for special education and related services, an IEP must be developed for the student.</p> <p>If the eligibility folder of the student has a current evaluation with recommendations regarding the academic/functional performance and competencies/needs of the student, and they have been addressed by the ARD committee in the development of the IEP, including goals and benchmarks, compliance has been identified.</p> <p>If the eligibility folder of the student has a current evaluation with recommendations regarding the academic/ functional competencies/needs of the student and they have not been addressed by the ARD committee in the development of the IEP, including goals and benchmarks, noncompliance has been identified.</p>	

**Investigatory Topic: Current Evaluation**

<b>Requirement</b>	<b>Investigatory Questions</b>	<b>Investigatory Considerations</b>
<p>(6) In evaluating each child with a disability under §§300.304 through 300.306, the evaluation is sufficiently comprehensive to identify all of the child's special education and related services needs, whether or not commonly linked to the disability category in which the child has been classified.</p> <p>(7) Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.</p> <p><b>34 CFR §300.305. Additional requirements for evaluations and reevaluations. (excerpt)</b></p> <p>(a) Review of existing evaluation data. As part of an initial evaluation (if appropriate) and as part of any reevaluation under this part, the IEP Team and other qualified professionals, as appropriate, must—</p> <p>(1) Review existing evaluation data on the child, including—</p> <p>(i) Evaluations and information provided by the parents of the child;</p> <p>(ii) Current classroom-based, local, or State assessments, and classroom-based observations; and</p>		

**Investigatory Topic: Current Evaluation**

<b>Requirement</b>	<b>Investigatory Questions</b>	<b>Investigatory Considerations</b>
<p>(iii) Observations by teachers and related services providers; and</p> <p>(2) On the basis of that review, and input from the child's parents, identify what additional data, if any, are needed to determine—</p> <p>(i)(A) Whether the child is a child with a disability, as defined in §300.8, and the educational needs of the child; or</p> <p>(B) In case of a reevaluation of a child, whether the child continues to have such a disability, and the educational needs of the child;</p> <p>(ii) The present levels of academic achievement and related developmental needs of the child;</p> <p>(iii)(A) Whether the child needs special education and related services; or</p> <p>(B) In the case of a reevaluation of a child, whether the child continues to need special education and related services; and</p> <p>(iv) Whether any additions or modifications to the special education and related services are needed to enable the child to meet the measurable annual</p>		

**Investigatory Topic: Current Evaluation**

<b>Requirement</b>	<b>Investigatory Questions</b>	<b>Investigatory Considerations</b>
<p>goals set out in the IEP of the child and to participate, as appropriate, in the general education curriculum.</p> <p>(b) Conduct of review, The group described in paragraph (a) of this section may conduct its review without a meeting.</p> <p>(c) Source of data. The public agency must administer such assessments and other evaluation measures as may be needed to produce the data identified under paragraph (a) of this section.</p> <p>(d) Requirements if additional data are not needed.</p> <p>(1) If the IEP Team and other qualified professionals, as appropriate, determine that no additional data are needed to determine whether the child continues to be a child with a disability, and to determine the child's educational needs, the public agency must notify the child's parents of—</p> <p>(i) That determination and the reasons for the determination; and</p> <p>(ii) The right of the parents to request an assessment to determine whether the child continues to be a child with a disability, and to determine the child's educational needs.</p>		

**Investigatory Topic: Current Evaluation**

Requirement	Investigatory Questions	Investigatory Considerations
<p>(2) The public agency is not required to conduct the assessment described in paragraph (d)(1)(ii) of this section unless requested to do so by the child's parents.</p>		

Other Requirements
<p><b>34 CFR §300.301. Initial evaluations. (excerpt)</b></p> <p>(a) General. Each public agency must conduct a full and individual initial evaluation, in accordance with §§300.304 through 300.306, before the initial provision of special education and related services to a child with a disability under this part.</p> <p>(c) Procedures for initial evaluation. The initial evaluation—</p> <p>(1) (i) Must be conducted within 60 days of receiving parental consent for the evaluation; or</p> <p>(2) Must consist of procedures—</p> <p>(i) To determine if the child is a child with a disability under §300.8; and</p> <p>(ii) To determine the educational needs of the child.</p> <p><b>34 CFR §300.306. Determination of eligibility. (excerpt)</b></p> <p>(c) Procedures for determining eligibility and education need.</p> <p>(1) In interpreting evaluation data for the purpose of determining if a child is a child with a disability under § 300.8, and the educational needs of the child, each public agency must—</p> <p>(i) Draw upon information from a variety of sources, including aptitude and achievement tests, parent input, and teacher recommendations, as well as information about the child's physical condition, social or cultural background, and adaptive behavior; and</p> <p>(ii) Ensure that information obtained from all of these sources is documented and carefully considered.</p> <p>(2) If a determination is made that a child has a disability and needs special education and related services, an IEP must be developed for the child in accordance with §§300.320 through 300.324.</p>

Investigatory Topic: Current Evaluation

Other Requirements (continued)

**34 CFR §300.323. When IEPs must be in effect. (excerpt)**

- (a) General. At the beginning of each school year, each public agency must have in effect, for each child with a disability within its jurisdiction, an IEP, as defined in §300.320.
- (c) Initial IEPs; provision of services. Each public agency must ensure that—
  - (1) A meeting to develop an IEP for a child is conducted within 30 days of a determination that the child needs special education and related services; and
  - (2) As soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.

**34 CFR §300.324. Development, review, and revision of IEP. (excerpt)**

- (b) Review and revision of IEPs—
  - (1) General. Each public agency must ensure that, subject to paragraphs (b)(2) and (b)(3) of this section, the IEP Team—
    - (i) Reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and
    - (ii) Revises the IEP, as appropriate, to address—
      - (A) Any lack of expected progress toward the annual goals described in §300.320(a)(2), and in the general education curriculum, if appropriate;
      - (B) The results of any reevaluation conducted under §300.303;
      - (C) Information about the child provided to, or by, the parents, as described under §300.305(a)(2);
      - (D) The child's anticipated needs; or
      - (E) Other matters.

**Investigatory Topic: Individualized Education Program (IEP) Implementation**

Requirement	Investigatory Questions	Investigatory Considerations
<p><b>34 CFR §300.323. When IEPs must be in effect. (excerpt)</b></p> <p>(a) General. At the beginning of each school year, each public agency must have in effect, for each child with a disability within its jurisdiction, an IEP, as defined in §300.320.</p> <p>(c) Initial IEPs; provision of services. Each public agency must ensure that—</p> <p>(2) As soon as possible following development of the IEP, special education and related services are made available to the child in accordance with the child's IEP.</p> <p>(d) Accessibility of child's IEP to teachers and others. Each public agency must ensure that—</p> <p>(1) The child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation; and</p> <p>(2) Each teacher and provider described in paragraph (d)(1) of this section is informed of—</p> <p>(i) His or her specific responsibilities related to implementing the child's IEP; and</p>	<p>IV. Is there evidence that the Individualized Education Program (IEP) for the student has been implemented as developed by the ARD committee?</p> <p>1. For a student that has received an initial evaluation and has been determined eligible for special education services, evidence in the student's eligibility folder indicates that special education and related services were provided to the student only after the consent for placement was obtained from the parent.</p> <p align="center"><b>or</b></p> <p>For a student previously determined to be eligible for special education and related services, evidence in the student's most recent IEP indicates that the IEP is still in effect (IEP must be within 1 calendar year of its development to be considered "in effect").</p> <p>2. Evidence in the student's eligibility folder indicates that the IEP was implemented as soon as possible following the development of the IEP.</p> <p>3. Evidence that the student's class schedule matches the schedule of services in the student's most current ARD/IEP documents in the student's eligibility folder.</p> <p>4. Evidence that appropriate personnel have been provided relevant portions of the IEP for its implementation, such as modifications, accommodations, behavior intervention plans, etc.</p> <p>5. Evidence that the IEP is implemented as written, including in settings to which students have been removed for disciplinary reasons.</p>	<p>The LEA must ensure that all services set forth in the student's IEP are provided, consistent with the student's needs as identified in the IEP. The LEA may provide each of those services directly, through its own staff resources; indirectly, by contracting with another public or private agency; or through other arrangements. In providing the services, the LEA may use whatever State, local, Federal, and private sources of support are available for those purposes, but the services must be at no cost to the parents, and the LEA remains responsible for ensuring that the IEP services are provided in a manner that appropriately meets the student's needs as specified in the IEP. The failure of another agency to provide service(s) described in the child's IEP may not deny or delay the provision of FAPE to the student.</p> <p>The program monitor will verify through classroom observation(s) and teacher and/or parent interviews that the IEP is implemented as written. If the ARD committee has determined that the student requires the use of an assistive technology device, the program monitor should verify that the student uses the assistive technology device.</p>

**Investigatory Topic: Individualized Education Program (IEP) Implementation**

Requirement	Investigatory Questions	Investigatory Considerations
<p>(ii) The specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.</p> <p><b>34 CFR §300.17. Free appropriate public education. (excerpt)</b></p> <p>Free appropriate public education or FAPE means special education and related services that—</p> <p>(d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of §§300.320 through 300.324.</p>	<p>If there is evidence that the above criteria have been met, the review is complete and compliance has been identified.</p> <p>If evidence does not support any of the items above, noncompliance has been identified.</p>	

**Standard:** The student will have an IEP developed by a properly constituted ARD committee, including a trained surrogate parent as appropriate, and based upon current evaluation data. All required members will be in attendance at the ARD meeting unless proper documentation related to member exclusion/non-attendance or conducting the ARD in the absence of the parent exists, and student evaluations will be current. Additionally, the IEP will be implemented as written. If noncompliance is identified, determine if systemic noncompliance exists. Systemic noncompliance is identified when 25% or more of the sample is found to be out of compliance or when significant trends are identified in specific student subgroups.

Investigatory Topic	Least Restrictive Environment (LRE)				
<p><b>Sampling</b></p>	<p>For this investigatory topic, the sample will be focused on students receiving instructional services in settings other than the general education classroom on a regular, age appropriate campus. However, folders and programs of students not reported as removed from the general education classroom and/or regular education campus also may be reviewed to verify LRE requirements for the student(s). If patterns of a particular practice or evidence of possible systemic noncompliance emerge, the TEA team will focus its sampling to verify findings. Within the folders selected, consideration will be given to:</p> <ul style="list-style-type: none"> <li>• the instructional arrangement in which RF students receive services;</li> <li>• the residential facility in which RF students reside;</li> <li>• the LEA campus on which RF students receive services;</li> <li>• RF students that receive various related services; and</li> <li>• RF students that require special transportation.</li> </ul>				
<p><b>Data Sources</b></p>	<table border="0"> <tr> <td style="vertical-align: top;"> <p>Data to Review Prior to On-Site Visit:</p> </td> <td style="vertical-align: top;"> <ul style="list-style-type: none"> <li>• <i>RF Tracker</i> Data</li> <li>• Student-Specific Data Collection</li> <li>• PEIMS</li> </ul> </td> </tr> <tr> <td style="vertical-align: top;"> <p>Data to Review During the On-Site Visit:</p> </td> <td style="vertical-align: top;"> <ul style="list-style-type: none"> <li>• <b>Document Review:</b> ARD/IEP documentation; LEA policies, procedures, and guidelines</li> <li>• <b>Interviews:</b> Students, parent/guardian, foster parents, surrogate parents, RF staff, teachers, administrators, diagnostic staff, related service personnel</li> </ul> </td> </tr> </table>	<p>Data to Review Prior to On-Site Visit:</p>	<ul style="list-style-type: none"> <li>• <i>RF Tracker</i> Data</li> <li>• Student-Specific Data Collection</li> <li>• PEIMS</li> </ul>	<p>Data to Review During the On-Site Visit:</p>	<ul style="list-style-type: none"> <li>• <b>Document Review:</b> ARD/IEP documentation; LEA policies, procedures, and guidelines</li> <li>• <b>Interviews:</b> Students, parent/guardian, foster parents, surrogate parents, RF staff, teachers, administrators, diagnostic staff, related service personnel</li> </ul>
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<p>Data to Review During the On-Site Visit:</p>	<ul style="list-style-type: none"> <li>• <b>Document Review:</b> ARD/IEP documentation; LEA policies, procedures, and guidelines</li> <li>• <b>Interviews:</b> Students, parent/guardian, foster parents, surrogate parents, RF staff, teachers, administrators, diagnostic staff, related service personnel</li> </ul>				
<p><b>Further Investigation</b></p>	<p>As the review of folders is conducted and data are analyzed, the review team may identify possible patterns of practices, trends, and/or indications of individual or systemic noncompliance that may require further investigation to verify the findings. Examples:</p> <ul style="list-style-type: none"> <li>• Evidence exists that placement is based upon the availability of related services or on program location;</li> <li>• Evidence of patterns of placement by disability category;</li> <li>• No supplementary aids or services or accommodation/modifications were attempted prior to placing students in self-contained settings;</li> <li>• Patterns of justifications for placement in self-contained settings;</li> <li>• Less restrictive settings are not considered or are not available for certain students until the student is deemed "ready" for the program or until the student ages up to next level; or</li> <li>• Students with disabilities are required to perform at the same level as students without disabilities in order to be placed in general education classes.</li> </ul>				
<p><b>On-Site Strategies</b></p>	<p>As the review proceeds, the review team may determine a need to gather additional data by conducting specific, individual interviews to verify findings. Additionally, the review team may determine that a review of LEA data in the form of additional classroom/student observations is necessary to verify findings on this item.</p>				

**Investigatory Topic: LRE**

Requirement	Investigatory Questions	Investigatory Considerations
<p><b>34 CFR §300.42. Supplementary aids and services</b></p> <p>Supplementary aids and services means aids, services, and other supports that are provided in regular education classes, other education-related settings, and in extracurricular and nonacademic settings, to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate in accordance with §§300.114 through 300.116.</p> <p><b>34 CFR §300.114. LRE requirements.</b></p> <p>(a) General.</p> <p>(1) Except as provided in §300.324(d)(2) (regarding children with disabilities in adult prisons), the State must have in effect policies and procedures to ensure that public agencies in the State meet the LRE requirements of this section and §§300.115 through 300.120.</p>	<p>V. Is there evidence that decisions related to LRE are made in accordance with federal and state requirements and that RF students are educated in the regular education classroom / on the regular, age-appropriate campus to the maximum extent appropriate?</p> <p>A. Is there evidence that RF students receive supports and services that result in placement in the general education classroom on a regular, age-appropriate, campus?</p> <ol style="list-style-type: none"> <li>1. Evidence that the ARD/IEP describes supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to support the general education classroom services/placement;</li> <li>2. Evidence that the ARD/IEP describes the program modifications or supports for school personnel that will be provided for the student in the general education classroom services/placement; and</li> <li>3. Evidence that the ARD/IEP describes how the student will be involved in and make progress in the general education curriculum and participate in extracurricular and other nonacademic activities.</li> </ol> <p>If the student receives all instructional services in the general education classroom on a regular, age-appropriate, campus, the review is complete and compliance is identified.</p> <p>If the student does not receive instruction in the general education classroom, continue review.</p>	<p><b>Note:</b> Charter schools, as well as traditional districts, are required to comply with the LRE provisions of the IDEA.</p>

**Investigatory Topic: LRE**

Requirement	Investigatory Questions	Investigatory Considerations
<p>(2) Each public agency must ensure that—</p> <p>(i) To the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are nondisabled; and</p> <p>(ii) Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.</p> <p><b>34 CFR §300.320. Definition of individualized education program. (excerpt)</b></p> <p>(a) General. As used in this part, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with §§300.320 through 300.324, and that must include—</p>	<p>B. If the student was removed from receiving instruction in the general education classroom is there evidence that the LEA made efforts to provide supplementary aids and services, based on peer-reviewed research to the extent practicable, before removing the student from the general education classroom?</p> <p>1. If no supplementary aids and services, based on peer-reviewed research to the extent practicable, were provided prior to removal from the general education classroom, is there documentation of an ARD committee discussion and/or justification regarding why they were not provided prior to removal from the general education classroom? If there is no evidence of a team discussion and/or justification, noncompliance has been identified.</p> <p>2. Is there evidence that the ARD committee determined whether the student would receive educational benefit from the general education classroom? If no, noncompliance has been identified.</p> <p>3. Is there evidence that the ARD committee determined what effect the student’s placement would have on the student or on the quality of services that he or she needs? If no, noncompliance has been identified.</p> <p>4. Is there evidence that the student with a disability was removed from education in age appropriate general classrooms solely because of needed modifications in the general curriculum? If yes, noncompliance has been identified.</p>	<p>IDEA 2004 does not permit LEAs to make mere token gestures to accommodate students with disabilities; its requirement for modifying and supplementing regular education is broad. However, the regulations do not require that a child has to fail in the less restrictive options on the continuum before that child can be placed in a setting that is appropriate to his or her needs. 34 CFR §300.114(a)(2), however, does require that the ARD committee consider whether the child can be educated in less restrictive settings with the use of appropriate supplementary aids and services and make a more restrictive placement only when they conclude that education in the less restrictive setting with appropriate supplementary aids and services cannot be achieved satisfactorily. LEAs need not provide every conceivable supplementary aid or service to assist the child.</p> <p>If the reason the LEA has not provided supplementary aids and services and methods/strategies for modifying the general curriculum for students with disabilities is related to not providing professional development/training to general educators, noncompliance has been identified.</p> <p>If the reason students with disabilities are not placed in the general education classroom is because ARD committees (including general education administrators, general education teachers, and special education teachers) believe that students with disabilities are required to perform on par with students without disabilities in order to be placed in general education classes, noncompliance has been identified.</p> <p>If the reason the LEA has not provided supplementary aids and services or accommodation/modifications to students with disabilities in general education settings is related to the fact that teachers have no experience in providing such services, or the LEA has not provided professional development/training to those teachers, noncompliance has been identified.</p>

**Investigatory Topic: LRE**

Requirement	Investigatory Questions	Investigatory Considerations
<p>(4) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child—</p> <p>(i) To advance appropriately toward attaining the annual goals;</p> <p>(ii) To be involved in and make progress in the general education curriculum in accordance with paragraph (a)(1) of this section, and to participate in extracurricular and other nonacademic activities; and</p> <p>(iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section;</p>	<p>C. If the student does not participate in extracurricular and other nonacademic activities, is there justification why not? If no justification is provided, noncompliance has been identified.</p> <p>D. If the student does not participate in activities with their non-disabled peers, is there justification why not? If no justification is provided, noncompliance has been identified.</p> <p>E. If the student is not provided instruction in the general education curriculum, is there justification why not? If no justification is provided, noncompliance has been identified.</p> <p>F. If the student does not receive instructional services on a regular, age-appropriate campus, is there justification for removal from a regular campus? Justification would include:</p> <ol style="list-style-type: none"> <li>1. Is there evidence that the ARD committee determined whether the student would receive educational benefit from the general education age appropriate campus? If no, noncompliance has been identified.</li> <li>2. Is there evidence that the ARD committee determined what effect the student's placement would have on the student or on the quality of services that he or she needs? If no, noncompliance has been identified.</li> <li>3. If the student does not participate in extracurricular and other nonacademic activities, is there justification why not? If no justification is provided, noncompliance has been identified.</li> <li>4. If the student does not participate in activities with his/her non-disabled peers, is there justification why not? If no justification is provided, noncompliance has been identified.</li> <li>5. If the student is not provided instruction in the general education curriculum, is there justification why not? If no justification is provided, noncompliance has been identified.</li> </ol>	<p>For items V.C. through V.E., if patterns of similar justifications exist across RF students or subgroups of RF students to reflect decision-making that is not individualized, noncompliance has been identified.</p> <p>If evidence indicates that students have been moved to more restrictive settings after entering the RF despite a lack of change in relevant educational goals, noncompliance has been identified.</p> <p>If evidence indicates that less restrictive settings are not considered or are not available for certain students until the student is deemed "ready" for program or until student ages up to next level, noncompliance has been identified.</p> <p>If evidence exists that placement is based upon the availability of related services at a given location, absent the need to centralize a unique service to address unique student needs, noncompliance has been identified.</p> <p>For items V.F.3. through V.F.5., if patterns of similar justifications exist across RF students or subgroups of RF students to reflect decision-making that is not individualized, noncompliance has been identified.</p>

**Investigatory Topic: LRE**

Requirement	Investigatory Questions	Investigatory Considerations
<p>(5) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in paragraph (a)(4) of this section.</p>	<p>G. If the student receives instructional services at the RF, is there justification for such a placement? If no justification is provided, noncompliance has been identified.</p> <ol style="list-style-type: none"> <li>1. Is there evidence that the ARD committee determined whether the student would receive educational benefit from an LEA campus? If no, noncompliance has been identified.</li> <li>2. Is there evidence that the ARD committee determined what effect the student's placement would have on the student or on the quality of services that he or she needs? If no, noncompliance has been identified.</li> <li>3. If the student does not participate in extracurricular and other nonacademic activities, then is there justification why not? If no justification is provided, noncompliance has been identified.</li> <li>4. If the student does not participate in activities with their non-disabled peers, then is there justification why not? If no justification is provided, noncompliance has been identified.</li> <li>5. If the student is not provided instruction in the general education curriculum, then is there justification why not? If no justification is provided, noncompliance has been identified.</li> </ol> <p>If the basis for the student's placement at the RF is determined to be an individualized medical/ therapeutic treatment justification or adjudication order, the LRE review is complete.</p>	<p>If evidence indicates that students have been moved to more restrictive settings after entering the RF despite a lack of change in relevant educational goals, noncompliance has been identified.</p> <p>If evidence indicates that less restrictive settings are not considered or are not available for certain students until the student is deemed "ready" for program or until student ages up to next level, noncompliance has been identified.</p> <p>For items V.G.3. through V.G.5., if patterns of similar justifications exist across RF students or subgroups of RF students to reflect decision-making that is not individualized, noncompliance has been identified.</p> <p>The program monitor should review the individual circumstances of students and any MOU between the LEA and RF to ensure that a full range of LRE options are available to RF students and that students are served on the site of the RF only when an ARD committee has determined that the placement is the LRE for the student. The ARD committee has the final responsibility for determining the LRE for a student; an RF's preferred practice or policies may not override ARD committee decision-making.</p> <p>The program monitor should review documentation related to the ARD committee's decision to educate the student at the RF based on a medical/therapeutic justification or an adjudication order. The program monitor also may be required to interview RF staff who have provided medical/therapeutic or adjudication documentation to the LEA/ARD committee.</p>

Investigatory Topic: LRE

Other Requirements

**34 CFR §300.115. Continuum of alternative placements.**

- (a) Each public agency shall ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services.
- (b) The continuum required in paragraph (a) of this section must—
  - (1) Include the alternative placements listed in the definition of special education under §300.38 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and
  - (2) Make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

**34 CFR §300.116. Placements.**

In determining the educational placement of a child with a disability, including a preschool child with a disability, each public agency must ensure that—

- (a) The placement decision—
  - (1) Is made by a group of persons, including the parents, and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and
  - (2) Is made in conformity with the LRE provisions of this subpart, including §§300.114-300.118;
- (b) The child's placement--
  - (1) Is determined at least annually;
  - (2) Is based on the child's IEP; and
  - (3) Is as close as possible to the child's home;
- (c) Unless the IEP of a child with a disability requires some other arrangement, the child is educated in the school that he or she would attend if nondisabled;
- (d) In selecting the LRE, consideration is given to any potential harmful effect on the child or on the quality of services that he or she needs; and
- (e) A child with a disability is not removed from education in age-appropriate regular classrooms solely because of needed modifications in the general education curriculum.

**34 CFR §300.117. Nonacademic settings.**

In providing or arranging for the provision of nonacademic and extracurricular services and activities, including meals, recess periods, and the services and activities set forth in §300.107, each public agency must ensure that each child with a disability participates with nondisabled children in the extracurricular services and activities to the maximum extent appropriate to the needs of that child. The public agency must ensure that each child with a disability has the supplementary aids and services determined by the child's IEP Team to be appropriate and necessary for the child to participate in nonacademic settings.

**Investigatory Topic: LRE**

**Other Requirements (continued)**

**34 CFR §300.118. Children in public or private institutions.**

Except as provided in Sec. 300.149(d) (regarding agency responsibility for general supervision of some individuals in adult prisons), an SEA must ensure that §300.114 is effectively implemented, including, if necessary, making arrangements with public and private institutions (such as a memorandum of agreement or special implementation procedures).

**TEC §42.151. Special Education. (excerpt)**

- (i) The agency shall encourage the placement of students in special education programs, including students in residential instructional arrangements, in the least restrictive environment appropriate for their educational needs.

**Standard:** All RF students will have access to instruction in the LRE in alignment with the statute, code, and regulations and to the same extent as other students with disabilities. If procedures are not implemented according to requirements, noncompliance has been identified. If noncompliance is identified, determine if systemic noncompliance exists. Systemic noncompliance is identified when 25% or more of the sample is found to be out of compliance or when significant trends are identified in specific student subgroups.

Investigatory Topic	Educational Benefit				
<p><b>Sampling</b></p>	<p>For this investigatory topic, the sample will be focused on students receiving educational and related services from the LEA for more than one year. If patterns of a particular practice or evidence of possible systemic noncompliance emerge, the TEA team will focus its sampling to verify findings. Within the folders selected, consideration will be given to:</p> <ul style="list-style-type: none"> <li>• the instructional arrangement in which RF students receive services;</li> <li>• the residential facility in which RF students reside;</li> <li>• the length of time the RF student has resided within the LEA;</li> <li>• the LEA campus in which RF students receive services;</li> <li>• RF students who were retained during the previous school year;</li> <li>• RF students with patterns of disciplinary removals; and</li> <li>• RF students with lack of attendance.</li> </ul>				
<p><b>Data Sources</b></p>	<table border="0"> <tr> <td style="vertical-align: top;"> <p>Data to Review Prior to On-Site Visit:</p> </td> <td style="vertical-align: top;"> <ul style="list-style-type: none"> <li>• PEIMS Data</li> <li>• Student Assessment Information, as available</li> </ul> </td> </tr> <tr> <td style="vertical-align: top;"> <p>Data to Review During the On-Site Visit:</p> </td> <td style="vertical-align: top;"> <ul style="list-style-type: none"> <li>• <b>Document Review:</b> ARD/IEP documentation; student grade reports; current student evaluations; AAR (as appropriate); disciplinary reports; student assessment results; LEA policies, procedures, and guidelines</li> <li>• <b>Interviews:</b> Student, parent/guardian, foster parents, surrogate parents, RF staff, teachers, administrators, diagnostic staff, related service personnel</li> </ul> </td> </tr> </table>	<p>Data to Review Prior to On-Site Visit:</p>	<ul style="list-style-type: none"> <li>• PEIMS Data</li> <li>• Student Assessment Information, as available</li> </ul>	<p>Data to Review During the On-Site Visit:</p>	<ul style="list-style-type: none"> <li>• <b>Document Review:</b> ARD/IEP documentation; student grade reports; current student evaluations; AAR (as appropriate); disciplinary reports; student assessment results; LEA policies, procedures, and guidelines</li> <li>• <b>Interviews:</b> Student, parent/guardian, foster parents, surrogate parents, RF staff, teachers, administrators, diagnostic staff, related service personnel</li> </ul>
<p>Data to Review Prior to On-Site Visit:</p>	<ul style="list-style-type: none"> <li>• PEIMS Data</li> <li>• Student Assessment Information, as available</li> </ul>				
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<p><b>Further Investigation</b></p>	<p>As the review of folders is conducted and data are analyzed, the review team may identify possible patterns of practices, trends, and/or indications of individual or systemic noncompliance that may require further investigation to verify the findings. Examples:</p> <ul style="list-style-type: none"> <li>• Most / all RF students educated at the site of the facility make minimal academic progress;</li> <li>• Most / all RF students educated at an LEA campus make minimal academic progress;</li> <li>• Most / all RF students have increased behavioral or disciplinary referrals;</li> <li>• Most / all RF students of certain disabilities have increased behavioral or disciplinary referrals;</li> <li>• RF students moving to a more restrictive environment; or</li> <li>• Interviews with parents, students, LEA staff, or RF staff responses indicate concerns with lack of progress in academic, behavioral, and/or related service area(s).</li> </ul>				
<p><b>On-Site Strategies</b></p>	<p>As the review proceeds, the review team may determine a need to gather additional data by conducting specific, individual interviews to verify findings. Additionally, the review team may determine that a review of LEA data in the form of related services progress reports or additional classroom/student observations is necessary to verify findings on this item.</p>				

**Investigatory Topic: Educational Benefit**

Requirement	Investigatory Questions	Investigatory Considerations
<p><b>34 CFR §300.17. Free appropriate public education.</b></p> <p>Free appropriate public education or FAPE means special education and related services that—</p> <p>(a) Are provided at public expense, under public supervision and direction, and without charge;</p> <p>(b) Meet the standards of the SEA, including the requirements of this part;</p> <p>(c) Include an appropriate preschool, elementary school, or secondary school education in the State involved; and</p> <p>(d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of §§300.320 through 300.324.</p>	<p>VI. Is there evidence that a student is benefiting educationally from the special education services provided to meet the goals contained in the student's IEP?</p> <p>A. Is there evidence that the student has attained mastery on the grade level Texas Essential Knowledge and Skills (TEKS) appropriate to the student's age and grade assignment?</p> <p>Evidence may be documented through student assessment results and/or grading reports related to instruction in and mastery of grade-level general curriculum at grade-level mastery expectations.</p> <p>If YES, the review is complete, and compliance has been determined.</p> <p>If NO, proceed to item VI.B.</p> <p>B. Is there evidence that the gap between the student's academic performance level and the student's assigned grade level has decreased over the past year?</p> <p>Evidence may be documented through student assessment results and/or grading reports related to instruction in and mastery of the general curriculum at the student's assigned grade level. This question cannot be answered yes for a student who was retained in the most recent academic year.</p> <p>If YES, the review is complete, and compliance has been determined.</p> <p>If NO, proceed to item VI.C.</p>	

**Investigatory Topic: Educational Benefit**

Requirement	Investigatory Questions	Investigatory Considerations
<p><b>34 CFR §300.320. Definition of Individualized education program.</b></p> <p>(a) General. As used in this part, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with §§300.320 through 300.324, and that must include—</p> <p>(1) A statement of the child's present levels of academic achievement and functional performance, including—</p> <p>(i) How the child's disability affects the child's involvement and progress in the general education curriculum (i.e., the same curriculum as for nondisabled children; or</p> <p>(ii) For preschool children, as appropriate, how the disability affects the child's participation in appropriate activities;</p> <p>(2) (i) A statement of measurable annual goals, including academic and functional goals designed to—</p>	<p>C. Is there evidence that the student has made at least one year of academic progress over the past year?</p> <p>Evidence may be documented through student assessment results and/or grading reports related to instruction in and mastery of the general curriculum at the student's assigned grade level.</p> <p>If YES, the review is complete, and compliance has been determined.</p> <p>If NO, proceed to item VI.D.</p> <p>D. Is there evidence that the student has moved to a less restrictive environment over the course of the past year while achieving goals established by the ARD committee of at least six months of academic gain?</p> <p>Evidence may be documented through ARD/IEP documentation, student assessment results, and/or grading reports related to instruction in and mastery of the general curriculum at the student's assigned grade-level. This question cannot be answered yes for a student who was retained in the most recent academic year.</p> <p>If YES, the review is complete, and compliance has been determined.</p> <p>If NO, proceed to item VI.E.</p> <p>E. Is there evidence that the gap between the student's academic performance level and the student's assigned grade level is equal to or less than one academic year and is not increasing as the student advances from grade to grade?</p> <p>Evidence may be documented through student assessment results and/or grading reports related to instruction in and mastery of the general curriculum at the student's assigned grade-level. This question cannot be answered yes for a student who was retained in the most recent academic year.</p>	

**Investigatory Topic: Educational Benefit**

Requirement	Investigatory Questions	Investigatory Considerations
<p>(A) Meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and</p> <p>(B) Meet each of the child's other educational needs that result from the child's disability;</p> <p>(ii) For children with disabilities who take alternate assessments aligned to alternate academic achievement standards, a description of benchmarks or short-term objectives;</p> <p>(3) A description of—</p> <p>(i) How the child's progress toward meeting the annual goals described in paragraph (2) of this section will be measured; and</p> <p>(ii) When periodic reports on the progress the child is making toward meeting the annual</p>	<p>If YES, the review is complete, and compliance has been determined.</p> <p>If NO, proceed to item VI.F.</p> <p>F. For a student of average intelligence or greater who does not meet a standard defined in VI.A. through VI.E. above:</p> <p>1. To address the discrepancy between the student's academic performance level and the assigned grade level appropriate to the student's age—</p> <p>a. Have IEP goals been revised over the most recent two annual ARDs to reflect an advance in skills based on scope and mastery of the TEKS-based curriculum?</p> <p>b. Does the student's placement along the continuum of instructional arrangements reflect services in the general education setting for at least 50% of the school day <u>or</u> has the student's placement changed to reflect a less restrictive placement over the past year?</p> <p>c. Has the student made at least three (3) months of academic progress over the past year?</p> <p>d. Are the student's patterns of behavior within the range of campus and LEA expectations, or, for a student whose behavior is an educational issue, does evidence indicate that the student's behavior is improving?</p> <p>Evidence may be documented through ARD/IEP documentation, student assessment results, grading reports related to instruction in and mastery of the general curriculum, and/or disciplinary reports. Question VI.F.1.a. or VI.F.1.c. cannot be answered yes for a student who was retained in the most recent academic year.</p>	

**Investigatory Topic: Educational Benefit**

Requirement	Investigatory Questions	Investigatory Considerations
<p>goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;</p> <p>(4) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child—</p> <p>(i) To advance appropriately toward attaining the annual goals;</p> <p>(ii) To be involved in and make progress in the general education curriculum in accordance with paragraph (a)(1) of this section, and to participate in extracurricular and other nonacademic activities; and</p>	<p>If YES to at least 3 issues in VI.F.1.a. through VI.F.1.d. above, the review is complete, and compliance has been determined.</p> <p>If NO, proceed to item VI.F.2.</p> <p>2. Is there evidence that a significant change in the student’s life external to the school setting, within the past 6 months, such as the progression of a medical condition or a death in the student’s immediate family, has significantly contributed to the lack of progress on the applicable items of VI.F.1.a. – VI.F.1.d. above?</p> <p>Evidence may take the form of medical/social history reports.</p> <p>If YES, the review is complete.</p> <p>If NO, proceed to item VI.F.3.</p> <p>3. Is there evidence that the ARD committee met and addressed the lack of expected progress?</p> <p>If YES, proceed to item VI.F.4.</p> <p>If NO, noncompliance has been identified.</p> <p>4. Is there evidence of meaningful academic or nonacademic progress within one grading period of the ARD held to consider lack of progress?</p> <p>Evidence may be documented through ARD/IEP documentation, student assessment results, grading reports related to instruction in and mastery of the general curriculum, and/or disciplinary reports.</p> <p>If YES, the review is complete, and compliance has been determined.</p> <p>If NO, noncompliance has been identified.</p>	

**Investigatory Topic: Educational Benefit**

Requirement	Investigatory Questions	Investigatory Considerations
<p>(iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section;</p> <p>(5) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in the activities described in paragraph (a)(4) of this section;</p> <p>(6) (i) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments consistent with section 612(a)(16) of the Act; and</p> <p>(ii) If the IEP Team determines that the child must take an alternate assessment instead of a particular regular State or districtwide assessment of</p>	<p>G. For a student not reviewed under VI.F. above and who does not meet a standard defined in VI.A. through VI.E. above:</p> <p>1. To address the discrepancy between the student's academic performance level and the expected performance level for his/her age and grade level—</p> <p>a. Have IEP goals been revised over the most recent two annual ARDs to reflect an advance in skills based on scope and mastery of the curriculum?</p> <p>b. Does the student's placement along the continuum of instructional arrangements reflect services in the general education setting for at least 50% of the school day <u>or</u> has the student's placement changed to reflect a less restrictive placement over the past year?</p> <p>c. Have decisions related to student assessment participation reflected student progress?</p> <p>d. Are the student's patterns of behavior within the range of campus and LEA expectations, or, for a student whose behavior is an educational issue, does evidence indicate that the student's behavior is improving?</p> <p>Evidence may be documented through ARD/IEP documentation, student assessment results, grading reports related to instruction in and mastery of the curriculum, and/or disciplinary reports. Question VI.G.1.a. or VI.G.1.c. cannot be answered yes for a student who was retained in the most recent academic year.</p> <p>If YES to at least 3 issues in VI.G.1.a. through VI.G.1.d. above, the review is complete, and compliance has been determined.</p> <p>If NO, proceed to item VI.G.2.</p>	

**Investigatory Topic: Educational Benefit**

Requirement	Investigatory Questions	Investigatory Considerations
<p>student achievement, a statement of why—</p> <p>(A) The child cannot participate in the regular assessment; and</p> <p>(B) The particular alternate assessment selected is appropriate for the child; and</p> <p>(7) The projected date for the beginning of the services and modifications described in paragraph (a)(4) of this section, and the anticipated frequency, location, and duration of those services and modifications.</p> <p><b>34 CFR §300.324. Development, review, and revision of IEP. (excerpt)</b></p> <p>(b) Review and revision of IEPs—</p> <p>(1) General. Each public agency must ensure that, subject to paragraphs (b)(2) and (b)(3) of this section, the IEP Team—</p> <p>(i) Reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and</p>	<p>2. Is there evidence that a significant change in the student's life external to the school setting, within the past 6 months, such as the progression of a medical condition or a death in the student's immediate family, has significantly contributed to the lack of progress on the applicable items of VI.G.1.a.–VI.G.1.d. above?</p> <p>Evidence may take the form of medical/social history reports.</p> <p>If YES, the review is complete.</p> <p>If NO, proceed to item VI.G.3.</p> <p>3. Is there evidence that the ARD committee met and addressed the lack of expected progress?</p> <p>If YES, proceed to item VI.G.4.</p> <p>If NO, noncompliance has been identified.</p> <p>4. Is there evidence of meaningful academic or nonacademic progress within one grading period of the ARD held to consider lack of progress?</p> <p>Evidence may be documented through ARD/IEP documentation, student assessment results, grading reports related to instruction in and mastery of the curriculum, and/or disciplinary reports.</p> <p>If YES, the review is complete, and compliance has been determined.</p> <p>If NO, noncompliance has been identified.</p>	

**Investigatory Topic: Educational Benefit**

Requirement	Investigatory Questions	Investigatory Considerations
<p>(ii) Revises the IEP, as appropriate, to address—</p> <p>(A) Any lack of expected progress toward the annual goals described in §300.320(a)(2), and in the general education curriculum, if appropriate;</p> <p>(B) The results of any reevaluation conducted under §300.303;</p> <p>(C) Information about the child provided to, or by, the parents, as described under §300.305(a)(2);</p> <p>(D) The child's anticipated needs; or</p> <p>(E) Other matters.</p>		

**Standard:** The student will receive educational benefit unless there is documented evidence to justify a lack of educational progress for an individual student. If educational benefit cannot be determined, noncompliance will be identified. If noncompliance is identified, determine if systemic noncompliance exists. Systemic noncompliance is identified when 25% or more of the sample is found to be out of compliance or when significant trends are identified in specific student subgroups.

Investigatory Topic	Certified/Qualified Staff
<b>Sampling</b>	<p>For this investigatory topic, the sample will be focused on staff members providing instructional and related services to RF students. If patterns of a particular practice or evidence of possible systemic noncompliance emerge, the TEA team will focus its sampling to verify findings. Within the folders selected, consideration will be given to:</p> <ul style="list-style-type: none"> <li>• the instructional arrangement in which RF students are receiving services;</li> <li>• the residential facility in which RF students reside; and</li> <li>• the LEA campus on which RF students are receiving services;</li> </ul>
<b>Data Sources</b>	<p>Data to Review Prior to On-Site Visit:</p> <ul style="list-style-type: none"> <li>• <i>RF Tracker Data</i></li> <li>• State Board for Educator Certification (SBEC) certification information</li> </ul> <p>Data to Review During the On-Site Visit:</p> <ul style="list-style-type: none"> <li>• <b>Document Review:</b> Personnel files, LEA policies, procedures, and guidelines, and student schedules</li> <li>• <b>Interviews:</b> Parent/guardian, foster parents, surrogate parents, teachers, administrators, diagnostic staff, related service personnel</li> </ul>
<b>Further Investigation</b>	<p>As the review of folders is conducted and data are analyzed, the review team may identify possible patterns of practices, trends, and/or indications of individual or systemic noncompliance that may require further investigation to verify the findings. Examples:</p> <ul style="list-style-type: none"> <li>• Interviews with parents, students, LEA staff, or RF staff responses indicate concerns with certification/qualifications of staff members providing instructional and related services to RF students.</li> </ul>
<b>On-Site Strategies</b>	<p>As the review of personnel files is completed, the review team may gather additional data by conducting interviews with LEA staff or contracted staff.</p>

**Investigatory Topic: Certified/Qualified Staff**

Requirement	Investigatory Questions	Investigatory Considerations
<p><b>34 CFR §300.156. Personnel qualifications. (excerpt)</b></p> <p>(a) General. The SEA must establish and maintain qualifications to ensure that personnel necessary to carry out the purposes of this part are appropriately and adequately prepared and trained, including that those personnel have the content knowledge and skills to serve children with disabilities.</p> <p>(b) Related services personnel and paraprofessionals. The qualifications under paragraph (a) of this section must include qualifications for related services personnel and paraprofessionals that—</p> <p>(1) Are consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services; and</p> <p>(2) Ensure that related services personnel who deliver services in their discipline or profession—</p> <p>(i) Meet the requirements of paragraph (b)(1) of this section; and</p> <p>(ii) Have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis; and</p> <p>(iii) Allow paraprofessionals and assistants who are appropriately trained and</p>	<p>VII. Is there evidence that RF students are provided instructional and related services by certified/ qualified staff?</p> <p>A. Is there evidence that that staff providing instructional services to RF students are certified/qualified; and</p> <p>B. Is there evidence that staff providing related services to RF students have recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services to RF students; and</p> <p>C. Is there evidence that staff conducting the evaluations for RF students are appropriately certified or credentialed; and</p> <p>D. Is there evidence that paraprofessionals and assistants are certified to assist in the provision of special education and related services to RF students?</p> <p>If all staff providing instructional and/or related services meet the criteria as indicated in VII.A. – VII.D. above, the review is complete and compliance has been identified.</p> <p>If any staff member(s) providing instructional and/or related services does not meet the criteria as indicated in VII.A. – VII.D. above, noncompliance has been identified.</p>	<p>Paraprofessionals who provide instructional services to RF students must have current state certificates, even if the paraprofessionals also are employed by the RF to provide other services to students outside the school day.</p> <p>Paraprofessionals must be under the direct supervision (close and frequent proximity) of a certified/qualified teacher.</p> <p>If related services as specified in the IEP are provided to RF students by RF staff instead of LEA staff, service providers still must meet the qualification standards of the professional discipline(s) in which the providers are engaged.</p>

**Investigatory Topic: Certified/Qualified Staff**

Requirement	Investigatory Questions	Investigatory Considerations
<p>supervised, in accordance with State law, regulation, or written policy, in meeting the requirements of this part to be used to assist in the provision of special education and related services under this part to children with disabilities.</p> <p>(c) Qualifications for special education teachers. The qualifications described in paragraph (a) of this section must ensure that each person employed as a public school special education teacher in the State who teaches in an elementary school, middle school, or secondary school is highly qualified as a special education teacher by the deadline established in section 119(a)(2) of the ESEA.</p>		

Other Requirements
<p><b>19 TAC §89.1131. Qualifications of Special Education, Related Service, and Paraprofessional Personnel.</b></p> <p>(a) All special education and related service personnel shall be certified, endorsed, or licensed in the area or areas of assignment in accordance with 34 Code of Federal Regulations (CFR), §300.156; the Texas Education Code (TEC), §§21.002, 21.003, and 29.304; or appropriate state agency credentials.</p> <p>(b) A teacher who holds a special education certificate or an endorsement may be assigned to any level of a basic special education instructional program serving eligible students 3-21 years of age, as defined in §89.1035(a) of this title (relating to Age Ranges for Student Eligibility), in accordance with the limitation of their certification, except for the following.</p> <ol style="list-style-type: none"> <li>(1) Persons assigned to provide speech therapy instructional services must hold a valid Texas Education Agency (TEA) certificate in speech and hearing therapy or speech and language therapy, or a valid state license as a speech/language pathologist.</li> <li>(2) Teachers holding only a special education endorsement for early childhood education for children with disabilities shall be assigned only to programs serving infants through Grade 6.</li> <li>(3) Teachers certified in the education of students with visual impairments must be available to students with visual impairments, including deaf-blindness, through one of the school district's instructional options, a shared services arrangement with other school districts, or an education service center (ESC).</li> </ol>

**Investigatory Topic: Certified/Qualified Staff**

**Other Requirements (continued)**

- (4) Teachers certified in the education of students with auditory impairments must be available to students with auditory impairments, including deaf-blindness, through one of the school district's instructional options, a regional day school program for the deaf, or a shared services arrangement with other school districts.
- (5) The following provisions apply to physical education.
  - (A) When the ARD committee has made the determination and the arrangements are specified in the student's individualized education program (IEP), physical education may be provided by the following personnel:
    - (i) special education instructional or related service personnel who have the necessary skills and knowledge;
    - (ii) physical education teachers;
    - (iii) occupational therapists;
    - (iv) physical therapists; or
    - (v) occupational therapy assistants or physical therapy assistants working under supervision in accordance with the standards of their profession.
  - (B) When these services are provided by special education personnel, the district must document that they have the necessary skills and knowledge. Documentation may include, but need not be limited to, inservice records, evidence of attendance at seminars or workshops, or transcripts of college courses.
- (6) Teachers assigned full-time or part-time to instruction of students from birth through age two with visual impairments, including deaf-blindness, shall be certified in the education of students with visual impairments. Teachers assigned full-time or part-time to instruction of students from birth through age two who are deaf, including deaf-blindness, shall be certified in education for students who are deaf and severely hard of hearing.
- (7) Teachers with secondary certification with the generic delivery system may be assigned to teach Grades 6-12 only.
- (c) Paraprofessional personnel must be certified and may be assigned to work with eligible students, general and special education teachers, and related service personnel. Aides may also be assigned to assist students with special education transportation, serve as a job coach, or serve in support of community-based instruction. Aides paid from state administrative funds may be assigned to the Special Education Resource System (SERS), the Special Education Management System (SEMS), or other special education clerical or administrative duties.
- (d) Interpreting services for students who are deaf shall be provided by an interpreter who is certified in the appropriate language mode(s), if certification in such mode(s) is available. If certification is available, the interpreter must be a certified member of or certified by the Registry of Interpreters for the Deaf (RID) or the Texas Board for Evaluation of Interpreters (BEI), Department of Assistive and Rehabilitative Services (DARS), Office for Deaf and Hard of Hearing Services (DHHS).
- (e) Orientation and mobility instruction must be provided by a certified orientation and mobility specialist (COMS) who is certified by the Academy for Certification of Vision Rehabilitation and Education Professionals.

**Standard:** RF students will receive all educational and related services from certified/qualified staff. Noncompliance is identified when any staff member, contractor, or other provider delivering services to RF students does not meet certified/qualified standards. If noncompliance is identified, determine if systemic noncompliance exists. Systemic noncompliance is identified when 25% or more of the sample is found to be out of compliance or when significant trends are identified in specific student subgroups.

Investigatory Topic	Commensurate School Day
<p><b>Sampling</b></p>	<p>For this investigatory topic, the sample will be focused on students receiving a shortened instructional day. However, folders and programs of students not reported as having a shortened school day also will be reviewed to verify length of school day for the student(s). If patterns of a particular practice or evidence of possible systemic noncompliance emerge, the TEA team will focus its sampling to verify findings. Within the folders selected, consideration will be given to:</p> <ul style="list-style-type: none"> <li>• the instructional arrangement in which RF students receive services;</li> <li>• the RF in which RF students reside;</li> <li>• the LEA campus on which RF students receive services;</li> <li>• RF students who receive special transportation as a related service; and</li> <li>• RF students who are transported by RF staff.</li> </ul>
<p><b>Data Sources</b></p>	<p>Data to Review Prior to On-Site Visit:</p> <ul style="list-style-type: none"> <li>• <i>RF Tracker</i> Data</li> <li>• Student-Specific Data Collection</li> </ul> <p>Data to Review During the On-Site Visit:</p> <ul style="list-style-type: none"> <li>• <b>Document Review:</b> ARD/IEP documentation; transportation schedules; student schedules; LEA policies, procedures, and guidelines</li> <li>• <b>Interviews:</b> Student, parent/guardian, foster parents, surrogate parents, RF staff, teachers, administrators, diagnostic staff, related service personnel</li> </ul>
<p><b>Further Investigation</b></p>	<p>As the review of folders is conducted and data are analyzed, the review team may identify possible patterns of practices, trends, and/or indications of individual or systemic noncompliance that may require further investigation to verify the findings. Examples:</p> <ul style="list-style-type: none"> <li>• Most / all RF students educated at the site of the facility are provided a shortened school day;</li> <li>• Most / all RF students educated at an LEA campus are provided a shortened school day;</li> <li>• Most / all RF students who receive special transportation as a related service are provided a shortened school day; or</li> <li>• Interviews with parents, students, LEA staff, or RF staff responses indicate concerns with the length of the school day.</li> </ul>
<p><b>On-Site Strategies</b></p>	<p>As the review proceeds, the review team may determine a need to gather additional data by conducting specific, individual interviews to verify findings. Additionally, the review team may determine that a review of LEA data in the form of transportation logs or additional classroom/student observations is necessary to verify findings on this item.</p>

**Investigatory Topic: Commensurate School Day**

Requirement	Investigatory Questions	Investigatory Considerations
<p><b>19 TAC §89.1075. General Program Requirements and Local District Procedures. (excerpt)</b></p> <p>(d) Students with disabilities shall have available an instructional day commensurate with that of students without disabilities. The ARD committee shall determine the appropriate instructional setting and length of day for each student, and these shall be specified in the student's IEP.</p>	<p>VIII. Is there evidence that students with disabilities have available an instructional day commensurate with that of students without disabilities or that a shortened school day is justified based on individualized student need?</p> <p>A. A commensurate school day is evidenced if the student with a disability has the same instructional day as that provided to students without disabilities on the student's home campus.</p> <ol style="list-style-type: none"> <li>1. Evidence that ARD/IEP schedule of services page indicates an instructional day equal in length to the instructional day of nondisabled peers; and</li> <li>2. Evidence that campus/school/class schedule reflects a commensurate school day; and</li> <li>3. Evidence that transportation schedule as written and implemented allows for a commensurate school day; and</li> <li>4. Evidence through on-site observations and/or interviews with school staff, RF staff, and/or parents that a commensurate school day is provided.</li> </ol> <p>If student has a commensurate school day, the review is complete and compliance is identified.</p> <p>If student does not receive a commensurate school day, review item VIII.B.</p> <p>B. If a commensurate school day is not evidenced, is there an individualized, student-based justification for the shortened school day?</p> <ol style="list-style-type: none"> <li>1. Evidence of court documentation ordering a shortened day; or</li> <li>2. Evidence of ARD/IEP documentation verifying a medically-relevant justification for a shortened school day.</li> </ol> <p>If the IEP does not document the justification for shortening the student's instructional day, noncompliance is identified.</p>	<p>Commensurate school day is evidenced if the RF student has the same instructional day as that provided to his or her nondisabled peers who attend a traditional regular campus within the LEA. For an RF student with a disability who is educated at the RF site or at a special education campus within the LEA, a commensurate school day is evidenced if the student has the same instructional day as that provided to his or her nondisabled peers who attend a traditional regular education campus within the LEA.</p> <p>The program monitor will verify that the schedule of services as documented in the most current IEP matches the actual services provided at the campus. Additionally, the program monitor will verify the transportation schedule(s) for RF students.</p> <p>If the program monitor is made aware that an RF student or a group of RF students' instructional day is shortened due to transportation or other administrative issues, the program monitor will corroborate this through interviews/observations. If this is substantiated, noncompliance has been identified.</p> <p>The program monitor will analyze justifications for a shortened school day to determine whether the circumstances cited and references used are aligned with individual student needs. If the justification for a shortened school day states only that a given student resides in an RF, noncompliance has been identified. Likewise, if the same justification language is used for shortening the school day of an entire group or subgroup of students, and an externally-mandated reason (for example, a court order of adjudication) cannot be determined by a program monitor, noncompliance has been identified.</p>

**Standard:** The student will have a school day commensurate with that of students without disabilities unless there is documented evidence of the inappropriateness of such for an individual student. If noncompliance is identified, determine if systemic noncompliance exists. Systemic noncompliance is identified when 25% or more of the sample is found to be out of compliance or when significant trends are identified in specific student subgroups.

Investigatory Topic	Related Services Provision				
<p><b>Sampling</b></p>	<p>For this investigatory topic, the sample will focus on students who receive related services and those who do not receive related services but who may have significant deficits in areas often associated with a need for developmental, corrective, or supportive services. If patterns of a particular practice or evidence of possible systemic noncompliance emerge, the TEA team will focus the sampling to verify findings. Within the folders selected, consideration will be given to:</p> <ul style="list-style-type: none"> <li>• the instructional arrangement in which RF students are receiving services;</li> <li>• the area(s) of disability identified for RF students;</li> <li>• the RF in which RF students reside;</li> <li>• the campus on which RF students are receiving services;</li> <li>• the type of related services RF students are receiving; and</li> <li>• students who may be failing, retained, or receiving reports related to lack of progress during the school year.</li> </ul>				
<p><b>Data Sources</b></p>	<table border="0"> <tr> <td style="vertical-align: top;"> <p>Data to Review Prior to On-Site Visit:</p> </td> <td style="vertical-align: top;"> <ul style="list-style-type: none"> <li>• <i>RF Tracker</i> Data</li> <li>• Student-Specific Data Collection</li> <li>• PEIMS</li> </ul> </td> </tr> <tr> <td style="vertical-align: top;"> <p>Data to Review During the On-Site Visit:</p> </td> <td style="vertical-align: top;"> <ul style="list-style-type: none"> <li>• <b>Document Review:</b> ARD/IEP documentation, evaluation data, progress reports related to IEPs, therapy service logs</li> <li>• <b>Interviews:</b> Student, parent/guardian, foster parents, surrogate parents, RF staff, teachers, administrators, diagnostic staff, related service personnel</li> </ul> </td> </tr> </table>	<p>Data to Review Prior to On-Site Visit:</p>	<ul style="list-style-type: none"> <li>• <i>RF Tracker</i> Data</li> <li>• Student-Specific Data Collection</li> <li>• PEIMS</li> </ul>	<p>Data to Review During the On-Site Visit:</p>	<ul style="list-style-type: none"> <li>• <b>Document Review:</b> ARD/IEP documentation, evaluation data, progress reports related to IEPs, therapy service logs</li> <li>• <b>Interviews:</b> Student, parent/guardian, foster parents, surrogate parents, RF staff, teachers, administrators, diagnostic staff, related service personnel</li> </ul>
<p>Data to Review Prior to On-Site Visit:</p>	<ul style="list-style-type: none"> <li>• <i>RF Tracker</i> Data</li> <li>• Student-Specific Data Collection</li> <li>• PEIMS</li> </ul>				
<p>Data to Review During the On-Site Visit:</p>	<ul style="list-style-type: none"> <li>• <b>Document Review:</b> ARD/IEP documentation, evaluation data, progress reports related to IEPs, therapy service logs</li> <li>• <b>Interviews:</b> Student, parent/guardian, foster parents, surrogate parents, RF staff, teachers, administrators, diagnostic staff, related service personnel</li> </ul>				
<p><b>Further Investigation</b></p>	<p>As the review of folders is conducted and data area analyzed, the review team may identify possible patterns of practices, trends, and/or indications of individual or systemic noncompliance that may require further investigation to verify the findings. Examples:</p> <ul style="list-style-type: none"> <li>• Few / no RF students educated at the site of the facility receive related services;</li> <li>• Most / all RF students get only consultative related services;</li> <li>• Varying patterns of related services provision for RF and non-RF students with disabilities;</li> <li>• Many RF students do not receive related services after a recommendation for services is made in the evaluation; or</li> <li>• Most / all related service evaluations for RF students do not recommend related services.</li> </ul>				
<p><b>On-Site Strategies</b></p>	<p>As the review proceeds, the review team may determine a need to gather additional data by conducting specific, individual interviews to verify findings. Additionally, the review team may determine that a review of LEA data in the form of related services progress reports or documentation of services rendered is necessary to verify findings on this item.</p>				

**Investigatory Topic: Related Services Provision**

Requirement	Investigatory Questions	Investigatory Considerations
<p><b>34 CFR §300.301. Initial evaluations. (excerpt)</b></p> <p>(a) General. Each public agency must conduct a full and individual initial evaluation, in accordance with §§300.304 through 300.306, before the initial provision of special education and related services to a child with a disability under this part.</p> <p><b>34 CFR §300.304. Evaluation procedures. (excerpt)</b></p> <p>(c) Other evaluation procedures. Each public agency must ensure that—</p> <p>(1) Assessments and other evaluation materials used to assess a child under this part—</p> <p>(i) Are selected and administered so as not to be discriminatory on a racial or cultural basis;</p> <p>(ii) Are provided and administered in the child's native language or other mode of communication and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless it is clearly not feasible to so provide or administer;</p>	<p>IX. Is there evidence of timely and sufficient provision of related services to RF students?</p> <p>A. Is there evidence that evaluations for related services are being conducted according to requirements to meet the needs of the student?</p> <p>1. Is there evidence that related services evaluations are completed within specified timelines?</p> <p>For related services evaluations conducted as part of the student's full individual and initial evaluation (FIE), a written report must be completed not later than the 60<sup>th</sup> calendar day following the date on which the LEA received written consent for the evaluation, signed by the student's parent or legal guardian.</p> <p>For other related services evaluations requested by the ARD committee, the ARD committee will establish timelines for completion of the evaluation. Requests for related services evaluations are made under circumstances in which the ARD committee determines that the service may be required to assist the student to benefit from special education services. Therefore, the timelines for completion of the evaluation as established by the ARD committee must take into consideration this potential need.</p> <p>Evidence of evaluation being conducted within the timeline will be documented in the student eligibility folder.</p> <p>If the evaluation has been conducted within specified timelines, compliance has been determined.</p> <p>If the evaluation has been completed beyond specified timelines, or if the timeline specified for completion of the evaluation is not reasonable based on the potential educational needs of the student, noncompliance has been identified.</p>	

**Investigatory Topic: Related Services Provision**

<b>Requirement</b>	<b>Investigatory Questions</b>	<b>Investigatory Considerations</b>
<p>(iii) Are used for the purposes for which the assessments or measures are valid and reliable;</p> <p>(iv) Are administered by trained and knowledgeable personnel; and</p> <p>(v) Are administered in accordance with any instructions provided by the producer of the assessments.</p> <p>(4) The child is assessed in all areas related to the suspected disability, including, if appropriate, health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities;</p> <p>(6) In evaluating each child with a disability under §§300.304 through 300.306, the evaluation is sufficiently comprehensive to identify all of the child's special education and related services as needs, whether or not commonly linked to the disability category in which the child has been classified.</p>	<p>2. Is there evidence that related services evaluations are conducted by qualified staff?</p> <p>Staff qualifications will be documented in personnel records, as well as through interviews with related services evaluation personnel. Evaluator information will be reflected in related services evaluation reports.</p> <p>If YES, compliance is identified.</p> <p>If NO, noncompliance has been identified.</p> <p>3. Is there evidence that the recommendations for services and/or supports contained in related services evaluations are aligned with the findings contained in the evaluation report?</p> <p>Related services evaluation reports will contain findings and determinations resulting from the evaluation. The reports also will make recommendations for the provision of related services or supplementary aids and services to RF students.</p> <p>If recommendations for supports and services are aligned with the findings and determinations contained in the report and are individualized, compliance is identified.</p> <p>If it is determined in the related services reports that significant educational needs exist, but services and/or supports are not recommended to address the educational need, noncompliance has been identified.</p> <p>If it is determined that related services reports recommend uniform supports and services that are not individualized to address the unique educational needs of RF students, noncompliance has been identified.</p>	<p>Required qualifications vary by related services discipline and may be determined by the Texas Education Agency (TEA) / State Board of Educator Certification (SBEC) or by another agency or organization that licenses a particular profession. The program monitor should ensure that the evaluator holds the appropriate license or certification to conduct the evaluation in question.</p>

**Investigatory Topic: Related Services Provision**

Requirement	Investigatory Questions	Investigatory Considerations
<p>(7) Assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child are provided.</p> <p><b>34 CFR §300.17. Free appropriate public education. (excerpt)</b></p> <p>Free appropriate public education or FAPE means special education and related services that—</p> <p>(d) Are provided in conformity with an individualized education program (IEP) that meets the requirements of §§300.320 through 300.324.</p> <p><b>34 CFR §300.156. Personnel qualifications. (excerpt)</b></p> <p>(b) Related services personnel and paraprofessionals. The qualifications under paragraph (a) of this section must include qualifications for related services personnel and paraprofessionals that—</p> <p>(1) Are consistent with any State-approved or State-recognized certification, licensing, registration, or other comparable requirements that apply to the professional discipline in which those personnel are providing special education or related services; and</p>	<p>4. Is there evidence that educationally relevant recommendations contained in related services evaluations are reviewed by the ARD committee and reflected in the IEPs of RF students with disabilities?</p> <p>If recommendations for supports and services result in ARD committee determinations to provide those supports and services, compliance is identified.</p> <p>If recommendations for supports and services do not result in ARD committee determinations to provide those supports and services, but individual, student-based reasons for not providing the supports or services or for providing alternate supports or services are identified by the ARD committee, compliance is identified.</p> <p>If recommendations for supports and services do not result in ARD committee determinations to provide those supports and services, and no individual, student-based justification for the decision is identified by the ARD committee, noncompliance has been identified.</p> <p>B. Is there evidence that related services are being provided as reflected in the IEP to meet unique student needs?</p> <p>1. Is there evidence that related services are individualized based on specific student needs?</p> <p>If YES, compliance is identified.</p> <p>If uniform patterns of service provision exist across RF students or subgroups of RF students to reflect decision-making that is not individualized, noncompliance has been identified.</p> <p>If patterns exist in which certain related services are not made available to RF students, noncompliance has been identified.</p>	

**Investigatory Topic: Related Services Provision**

<b>Requirement</b>	<b>Investigatory Questions</b>	<b>Investigatory Considerations</b>
<p>(ii) Have not had certification or licensure requirements waived on an emergency, temporary, or provisional basis; and</p> <p>(iii) Allow paraprofessionals and assistants who are appropriately trained and supervised, in accordance with State law, regulation, or written policy, in meeting the requirements or this part to be used to assist in the provision of special education and related services under this part to children with disabilities.</p>	<p>If the amount of service provided to students is not indicative of the severity of the students' educational needs (for example, all students receive consultative services / none receive direct service, regardless of individual need, or students with substantial needs are provided no services or fewer services than other students), noncompliance has been identified.</p> <p>If treatment services are provided by the RF in areas aligned with related services that may be provided under the IDEA, and, therefore, the ARD committee does not consider the educational need of the student for a given related service, noncompliance has been identified.</p> <p>2. Is there evidence that related services are being provided as specified in the IEP?</p> <p>Evidence will be documented by reviewing the IEP and the related service provider's documentation of services. Evidence also will be obtained through interviews with related service providers, parents/ surrogate parents, and LEA staff to determine if student is receiving the related services indicated in the RF student's IEP.</p> <p>If YES, compliance is identified.</p> <p>If related services are not being provided or are not being provided according the specifications contained in the IEP (amount, frequency, and duration), noncompliance has been identified.</p> <p>If related services are not being provided by qualified staff, noncompliance has been identified.</p>	<p>If related services as specified in the IEP are provided to RF students by RF staff instead of LEA staff, the LEA must ensure that the service providers meet the qualification standards of the professional discipline(s) in which the providers are engaged.</p>

**Investigatory Topic: Related Services Provision**

Requirement	Investigatory Questions	Investigatory Considerations
	<p>C. Is there evidence that ARD committee determinations related to the provision of related services are reasonably calculated to assist an RF student to benefit from special education?</p> <p>Evidence will be documented in the IEP, including related services goals and objectives. Evidence also will be obtained through interviews with related service providers, parents/surrogate parents, and LEA staff.</p> <p>If YES, compliance is identified.</p> <p>D. Is there evidence that the ARD committee considers progress made on related services goals and revises the IEP as necessary to address a failure to progress?</p> <p>If the ARD committee does not review a lack of progress on related services goals and revise the IEP to address a failure to progress, noncompliance has been identified.</p>	

Other Requirements
<p><b>34 CFR §300.34. Related services.</b></p> <p>(a) General. Related services means transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, and includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, early identification and assessment of disabilities in children, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school health services and school nurse services, social work services in schools, and parent counseling and training.</p> <p>(b) Exception; services that apply to children with surgically implanted devices, including cochlear implants.</p> <p>(1) Related services do not include a medical device that is surgically implanted, the optimization of that device's functioning (e.g., mapping), maintenance of that device, or the replacement of that device.</p> <p>(2) Nothing in paragraph (b)(1) of this section—</p> <p>(i) Limits the right of a child with a surgically implanted device (e.g., cochlear implant) to receive related services (as listed in paragraph (a) of this section) that are determined by the IEP Team to be necessary for the child to receive FAPE.</p>

## Investigatory Topic: Related Services Provision

### Other Requirements (continued)

(ii) Limits the responsibility of a public agency to appropriately monitor and maintain medical devices that are needed to maintain the health and safety of the child, including breathing, nutrition, or operation of other bodily functions, while the child is transported to and from school or is at school; or

(iii) Prevents the routine checking of an external component of a surgically implanted device to make sure it is functioning properly, as required in §300.113(b).

(c) Individual related services terms defined. The terms used in this definition are defined as follows:

(1) Audiology includes—

(i) Identification of children with hearing loss;

(ii) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;

(iii) Provision of habilitative activities, such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation;

(iv) Creation and administration of programs for prevention of hearing loss;

(v) Counseling and guidance of children, parents, and teachers regarding hearing loss; and

(vi) Determination of children's needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.

(2) Counseling services means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.

(3) Early identification and assessment of disabilities in children means the implementation of a formal plan for identifying a disability as early as possible in a child's life.

(4) Interpreting services includes—

(i) The following, when used with respect to children who are deaf or hard of hearing: Oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, and transcription services, such as communication access real-time translation (CART), C-Print, and TypeWell; and

(ii) Special interpreting services for children who are deaf-blind.

(5) Medical services means services provided by a licensed physician to determine a child's medically related disability that results in the child's need for special education and related services.

(6) Occupational therapy—

(i) Means services provided by a qualified occupational therapist; and

(ii) Includes—

(A) Improving, developing or restoring functions impaired or lost through illness, injury, or deprivation;

**Investigatory Topic: Related Services Provision**

**Other Requirements (continued)**

- (B) Improving ability to perform tasks for independent functioning if functions are impaired or lost; and
  - (C) Preventing, through early intervention, initial or further impairment or loss of function.
- (7) Orientation and mobility services—
- (i) Means services provided to blind or visually impaired students by qualified personnel to enable those students to attain systematic orientation to and safe movement within their environments in school, home, and community; and
  - (ii) Includes teaching students the following, as appropriate:
    - (A) Spatial and environmental concepts and use of information received by the senses (such as sound, temperature and vibrations) to establish, maintain, or regain orientation and line of travel (e.g., using sound at a traffic light to cross the street);
    - (B) To use the long cane or service animal to supplement visual travel skills or as a tool for safely negotiating the environment for children with no available travel vision;
    - (C) To understand and use remaining vision and distance low vision aids; and
    - (D) Other concepts, techniques, and tools.
- (8) Parent counseling and training means—
- (i) Assisting parents in understanding the special needs of their child;
  - (ii) Providing parents with information about child development; and
  - (iii) Helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP or IFSP.
- (9) Physical therapy means services provided by a qualified physical therapist.
- (10) Psychological services includes—
- (i) Administering psychological and educational tests, and other assessment procedures;
  - (ii) Interpreting assessment results;
  - (iii) Obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;
  - (iv) Consulting with other staff members in planning school programs to meet the special educational needs of children as indicated by psychological tests, interviews, direct observation, and behavioral evaluations;
  - (v) Planning and managing a program of psychological services, including psychological counseling for children and parents; and
  - (vi) Assisting in developing positive behavioral intervention strategies.

**Investigatory Topic: Related Services Provision**

**Other Requirements (continued)**

(11) Recreation includes—

- (i) Assessment of leisure function;
- (ii) Therapeutic recreation services;
- (iii) Recreation programs in schools and community agencies; and
- (iv) Leisure education.

(12) Rehabilitation counseling services means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability. The term also includes vocational rehabilitation services provided to a student with a disability by vocational rehabilitation programs funded under the Rehabilitation Act of 1973, as amended, 29 U.S.C. 701 et seq.

(13) School health services and school nurse services means health services that are designed to enable a child with a disability to receive FAPE as described in the child's IEP. School nurse services are services provided by a qualified school nurse. School health services are services that may be provided by either a qualified school nurse or other qualified person.

(14) Social work services in schools includes—

- (i) Preparing a social or developmental history on a child with a disability;
- (ii) Group and individual counseling with the child and family;
- (iii) Working in partnership with parents and others on those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school;
- (iv) Mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program; and
- (v) Assisting in developing positive behavioral intervention strategies.

(15) Speech-language pathology services includes—

- (i) Identification of children with speech or language impairments;
- (ii) Diagnosis and appraisal of specific speech or language impairments;
- (iii) Referral for medical or other professional attention necessary for the habilitation or prevention of speech and language impairments; and
- (iv) Provision of speech and language services for the habilitation or prevention of communicative impairments; and
- (v) Counseling and guidance of parents, children, and teachers regarding speech and language impairments.

**Investigatory Topic: Related Services Provision**

**Other Requirements (continued)**

(16) Transportation includes—

- (i) Travel to and from school and between schools;
- (ii) Travel in and around school buildings; and
- (iii) Specialized equipment (such as special or adapted buses, lifts, and ramps), if required to provide special transportation for a child with a disability.

**34 CFR §300.320. Definition of individualized education program. (excerpt)**

(a) General. As used in this part, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with §§300.320 through 300.324, and that must include—

(3) A description of—

- (i) How the child's progress toward meeting the annual goals described in paragraph (2) of this section will be measured; and
- (ii) When periodic reports on the progress the child is making toward meeting the annual goals (such as through the use of quarterly or other periodic reports, concurrent with the issuance of report cards) will be provided;

(4) A statement of the special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child, or on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided to enable the child—

- (i) To advance appropriately toward attaining the annual goals;
- (ii) To be involved and make progress in the general education curriculum in accordance with paragraph (a)(1) of this section and to participate in extracurricular and other nonacademic activities; and
- (iii) To be educated and participate with other children with disabilities and nondisabled children in the activities described in this section;

(7) The projected date for the beginning of the services and modifications described in paragraph (a)(4) of this section, and the anticipated frequency, location, and duration of those services and modifications.

**TEC §21.003. Certification Required.**

(a) A person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, or counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by Subchapter B.

(b) A person may not be employed by a school district as an audiologist, occupational therapist, physical therapist, physician, nurse, school psychologist, associate school psychologist, social worker, or speech language pathologist unless the person is licensed by the state agency that licenses that profession. A person may perform specific services within those professions for a school district only if the person holds the appropriate credential from the appropriate state agency.

**Investigatory Topic: Related Services Provision**

**Other Requirements (continued)**

**TEC §29.004. Full Individual and Initial Evaluation.**

- (a) A written report of a full individual and initial evaluation of a student for purposes of special education services shall be completed not later than the 60th calendar day following the date on which the school district, in accordance with 20 U.S.C. Section 1414(a), as amended, receives written consent for the evaluation, signed by the student's parent or legal guardian.
- (b) The evaluation shall be conducted using procedures that are appropriate for the student's most proficient method of communication.

**Standard:** All students with a disability will have access to related services as appropriate and to the same degree as other students with disabilities and will receive all related services that have been determined necessary for the student to benefit from special education. If student does not receive such related services, noncompliance is identified. If noncompliance is identified, determine if systemic noncompliance exists. Systemic noncompliance is identified when 25% or more of the sample is found to be out of compliance or when significant trends are identified in specific student subgroups.

Investigatory Topic	Behavior/Discipline
<p><b>Sampling</b></p>	<p>For this investigatory topic, the sample will focus on students who have been subject to disciplinary action. If patterns of a particular practice or evidence of possible systemic noncompliance emerge, the TEA team will focus the sampling to verify findings. Within the folders selected, consideration will be given to:</p> <ul style="list-style-type: none"> <li>• the area(s) of disability identified for RF students;</li> <li>• the RF in which RF students reside;</li> <li>• the campus on which RF students are receiving services;</li> <li>• the presence of manifestation determination reviews, functional behavior assessments, and/or behavior intervention plans; and</li> <li>• students who have undergone a change of placement for disciplinary reasons.</li> </ul>
<p><b>Data Sources</b></p>	<p>Data to Review Prior to On-Site Visit:</p> <ul style="list-style-type: none"> <li>• <i>RF Tracker</i> Data</li> <li>• Student-Specific Data Collection</li> <li>• PEIMS</li> </ul> <p>Data to Review During the On-Site Visit:</p> <ul style="list-style-type: none"> <li>• <b>Document Review:</b> ARD/IEP documentation, evaluation data, discipline reports, functional behavior assessments and behavior intervention plans; related services progress reports, local code of conduct</li> <li>• <b>Interviews:</b> Student, parent/guardian, foster parents, surrogate parents, RF staff, teachers, administrators, diagnostic staff, related service personnel</li> </ul>
<p><b>Further Investigation</b></p>	<p>As the review of folders is conducted and data area analyzed, the review team may identify possible patterns of practices, trends, and/or indications of individual or systemic noncompliance that may require further investigation to verify the findings. Examples:</p> <ul style="list-style-type: none"> <li>• Disciplinary actions are routinely implemented for RF students without consideration for the use of positive behavioral supports;</li> <li>• Manifestation determination reviews result in routine determinations and/or justifications that are not student specific;</li> <li>• Patterns of students in certain disability categories, such as emotional disturbance, autism, or other health impairment, who undergo a change of placement based on a manifestation determination review that indicates the conduct was not caused by or directly or substantially related to the RF student's disability;</li> <li>• Lack of educational service provision for students who undergo a change of placement for disciplinary reasons;</li> <li>• Varying patterns of disciplinary actions for RF and non-RF students with disabilities; or</li> <li>• Most / all behavior intervention plans for RF students are the same.</li> </ul>
<p><b>On-Site Strategies</b></p>	<p>As the review proceeds, the review team may determine a need to gather additional data by conducting specific, individual interviews to verify findings. Additionally, the review team may determine that a review of LEA data in the form of discipline records/reports or documentation of services rendered is necessary to verify findings on this item.</p>

**Investigatory Topic: Behavior/Discipline**

Requirement	Investigatory Questions	Investigatory Considerations
<p><b>34 CFR §300.324. Development, review, and revision of IEP. (excerpt)</b></p> <p><b>(a) Development of IEP.</b></p> <p>(2) Consideration of special factors. The IEP team must—</p> <p>(i) In the case of a child whose behavior impedes the child's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior.</p>	<p>X. Is there evidence that LEAs serving RF students conduct functional behavior assessments (FBAs), develop behavior intervention plans (BIPs), conduct manifestation determination reviews (MDRs), and implement individualized education programs (IEPs), including positive behavioral interventions and BIPs as required?</p> <p>A. Is there evidence that, in the case of a child whose behavior impedes his or her learning or that of others, the ARD committee considers, if appropriate, strategies, including positive behavioral interventions, strategies, and supports to address behavior?</p> <p>If a pattern exists in which, for RF students whose behavior impedes their learning or that of others, the students' IEPs fail to consider the use of positive behavioral interventions and supports, noncompliance has been identified.</p> <p>B. Is there evidence that manifestation determination reviews are conducted as required when a decision is made to change the placement of an RF student with a disability who has engaged in behavior that violated the code of conduct of the LEA that applies to all students?</p> <p>1. Is there evidence that, within 10 school days of any decision to change the placement of an RF student with a disability, a review (MDR) is conducted?</p> <p>2. Is there evidence that the MDR was conducted by the RF student's ARD committee?</p>	<p>Positive behavioral interventions are a range of behavior strategies and prevention-based interventions that help educators establish schoolwide, classroom, and individual student level systems of support to address behavior issues. A student-based strategy could include the provision of counseling as a related service.</p> <p>A change of placement occurs if the removal is for more than 10 consecutive school days or if the RF student is subjected to a series of removals that constitute a pattern based on the factors in 34 CFR §300.536(a)(2).</p> <p>When determining whether the placement of an RF student has been changed, the LEA must account for all removals from the educational placement, including time periods during which the student is returned to the RF due to behavioral issues. Removals to the RF must be included in the change of placement analysis regardless of how they are documented for purposes of discipline under TEC Chapter 37.</p>

**Investigatory Topic: Behavior/Discipline**

Requirement	Investigatory Questions	Investigatory Considerations
<p><b>34 CFR §300.536. Change of placement because of disciplinary removals.</b></p> <p>(a) For purposes of removals of a child with a disability from the child's current educational placement under §§300.530-300.535, a change of placement occurs if—</p> <p>(1) The removal is for more than 10 consecutive school days; or</p> <p>(2) The child has been subjected to a series of removals that constitute a pattern—</p> <p>(i) Because the series of removals total more than 10 school days in a school year;</p> <p>(ii) Because the child's behavior is substantially similar to the child's behavior in previous incidents that resulted in the series of removals; and</p> <p>(iii) Because of such additional factors as the length of each removal, the total amount of time the child has been removed, and the proximity of the removals to one another.</p>	<p>3. Is there evidence that, in conducting the MDR, the ARD committee reviewed all relevant information in the student's file, including—</p> <p>a. the RF student's IEP,</p> <p>b. any teacher observations, and</p> <p>c. any relevant information provided by the parents?</p> <p>4. Is there evidence that, in conducting the MDR, the ARD committee determines—</p> <p>a. if the conduct in question was caused by, or had a direct and substantial relationship to the student's disability; or</p> <p>b. if the conduct in question was the direct result of the LEA's failure to implement the IEP?</p> <p>If the ARD committee determines that either X.B.4.a. or b. apply, the behavior has been determined to be a manifestation of the student's disability.</p> <p>If the ARD committee determines that behavior is not a manifestation of the RF student's disability without considering all relevant information in X.B.3.a.-c. above, noncompliance has been identified.</p> <p>If the ARD committee determines that behavior is not a manifestation of the RF student's disability without ruling out X.B.4.a.-b. above, noncompliance has been identified.</p> <p>If patterns exist where MDR results indicate that uniform decisions are made in which RF student behaviors are determined not to be caused by or directly or substantially related to the student's disability regardless of relevant information related to the student's disability or IEP, noncompliance has been identified.</p>	

**Investigatory Topic: Behavior/Discipline**

Requirement	Investigatory Questions	Investigatory Considerations
<p>(b)(1) The public agency determines on a case-by-case basis whether a pattern of removals constitutes a change of placement.</p> <p>(2) This determination is subject to review through due process and judicial proceedings.</p>	<p>C. If it is determined that the RF student’s conduct was a manifestation of the student’s disability, is there evidence that the ARD committee—</p> <ol style="list-style-type: none"> <li>1. conducted an FBA and implemented a BIP for the student, provided that the LEA had not already conducted the assessment;</li> <li>2. in the situation in which a BIP has been developed, reviewed the BIP and modified it, as necessary, to address the behavior, and</li> <li>3. returned the RF student to the placement from which the student was removed, unless the parent and the LEA agreed to a change of placement as part of the modification of the BIP, or unless the student’s conduct involved drugs, weapons, or serious bodily injury as described in 34 CFR 300.530(g).</li> </ol> <p>If the ARD committee determines that behavior is a manifestation of the RF student’s disability and an FBA has not been conducted and/or a BIP has not been developed or reviewed as required under X.C.1. through X.C.2. above, noncompliance has been identified.</p> <p>If the ARD committee determines that behavior is a manifestation of the RF student’s disability and the student is not returned to the previous placement as required under X.C.3. above, noncompliance has been identified.</p> <p>D. Irrespective of whether the RF student’s conduct was a manifestation of the student’s disability, is there evidence that the RF student who is removed—</p> <ol style="list-style-type: none"> <li>1. continues to receive educational services so as to enable the RF student to continue to participate in the general education curriculum although in another setting and to progress toward meeting the goals set out in the RF student’s IEP; and</li> <li>2. receives, as appropriate, a functional behavioral assessment, behavior intervention services, and modifications that are designed to address the behavior violation so that it does not recur.</li> </ol>	<p>In determining compliance with this item, the program monitor should review the requirements and exceptions contained in SPECIAL CIRCUMSTANCES, at 34 CFR §300.530(g).</p>

**Investigatory Topic: Behavior/Discipline**

Requirement	Investigatory Questions	Investigatory Considerations
	<p>If the LEA does not continue to provide educational services to the RF student as required under X.D.1. above, noncompliance has been identified.</p> <p>If an FBA has not been conducted and/or behavior intervention services and modifications have not been provided as required under X.D.2. above, noncompliance has been identified.</p> <p>E. Is there evidence that BIPs, when developed, are individualized to address the behavior needs of the RF student?</p> <p>If patterns exist in which the BIPs of RF students or RF students in certain disability categories look identical or substantially the same without regard to individual student behaviors or issues, noncompliance has been identified.</p> <p>F. Is there evidence that a pattern exists involving disciplinary removals for RF students not found with other students with disabilities or with non-disabled students leading to RF students receiving fewer instructional services?</p> <p>If patterns of removal occur for RF students that do not occur for other students, noncompliance has been identified.</p>	<p>In determining compliance with this item, the review team will inquire about any practice of returning RF students to the RF to address behavioral issues and any agreements the LEA and RF have reached about how the behavior of RF students is addressed.</p>

Investigatory Topic: Behavior/Discipline

Other Requirements

**TEC §37.004. Placement of Students With Disabilities.**

- (a) The placement of a student with a disability who receives special education services may be made only by a duly constituted admission, review, and dismissal committee.
- (b) Any disciplinary action regarding a student with a disability who receives special education services that would constitute a change in placement under federal law may be taken only after the student's admission, review, and dismissal committee conducts a manifestation determination review under 20 U.S.C. Section 1415(k)(4) and its subsequent amendments. Any disciplinary action regarding the student shall be determined in accordance with federal law and regulations, including laws or regulations requiring the provision of:
  - (1) functional behavioral assessments;
  - (2) positive behavioral interventions, strategies, and supports;
  - (3) behavioral intervention plans; and
  - (4) the manifestation determination review.
- (c) A student with a disability who receives special education services may not be placed in alternative education programs solely for educational purposes.
- (d) A teacher in an alternative education program under Section 37.008 who has a special education assignment must hold an appropriate certificate or permit for that assignment.

**TEC §37.005. Suspension.**

- (a) The principal or other appropriate administrator may suspend a student who engages in conduct identified in the student code of conduct adopted under Section 37.001 as conduct for which a student may be suspended.
- (b) A suspension under this section may not exceed three school days.

**Standard:** All RF students will be subject to disciplinary procedures in alignment with the statute, code, and regulations and to the same extent as other students with disabilities. If procedures aren't implemented according to requirements, noncompliance has been identified. If noncompliance is identified, determine if systemic noncompliance exists. Systemic noncompliance is identified when 25% or more of the sample is found to be out of compliance or when significant trends are identified in specific student subgroups.

Investigatory Topic	Transition Services
<p><b>Sampling</b></p>	<p>For this investigatory topic, the sample will be focused on students 16 years of age or older and any younger students for whom transition has been addressed. If patterns of a particular practice or evidence of possible systemic noncompliance emerge, the TEA team will focus its sampling to verify findings. Within the folders selected, consideration will be given to:</p> <ul style="list-style-type: none"> <li>• the RF in which RF students reside;</li> <li>• the LEA campus on which RF students receive services; and</li> <li>• RF students ages 16 and older.</li> </ul>
<p><b>Data Sources</b></p>	<p>Data to Review Prior to On-Site Visit:</p> <ul style="list-style-type: none"> <li>• <i>RF Tracker</i> Data (related to student age)</li> <li>• Student-Specific Data Collection</li> </ul> <p>Data to Review During the On-Site Visit:</p> <ul style="list-style-type: none"> <li>• <b>Document Review:</b> ARD/IEP documentation; VAC/OJT teacher logs; student schedules; LEA policies, procedures, and guidelines; documents reflecting coordination with other agencies</li> <li>• <b>Interviews:</b> Student, parent/guardian, foster parents, surrogate parents, RF staff, teachers, administrators, diagnostic staff, related service personnel, other agency personnel/employers (as appropriate)</li> </ul>
<p><b>Further Investigation</b></p>	<p>As the review of folders is conducted and data are analyzed, the review team may identify possible patterns of practices, trends, and/or indications of individual or systemic noncompliance that may require further investigation to verify the findings. Examples:</p> <ul style="list-style-type: none"> <li>• The extent of transition planning reflected in the IEPs of RF students (ages 16 and older) varies from that of students who do not reside in an RF;</li> <li>• Most / all RF students educated at an LEA campus are not provided access to transition related curriculum; or</li> <li>• Interviews with parents, students, LEA staff, or RF staff responses indicate concerns with transition goals for RF students.</li> </ul>
<p><b>On-Site Strategies</b></p>	<p>As the review proceeds, the review team may determine a need to gather additional data by conducting specific, individual interviews to verify findings. Additionally, the review team may determine that a review of LEA data in the form of teacher logs, class schedules, work schedules, guidance counseling schedules, or additional classroom/student observations is necessary to verify findings on this item.</p>

**Investigatory Topic: Transition Services**

Requirement	Investigatory Questions	Investigatory Considerations
<p><b>34 CFR §300.320. Definition of individualized education program. (excerpt)</b></p> <p>(b) Transition services, Beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, and updated annually, thereafter, the IEP must include—</p> <p>(1) Appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and</p> <p>(2) The transition services (including courses of study) needed to assist the child in reaching those goals.</p> <p>(c) Transfer of rights at age of majority. Beginning not later than one year before the child reaches the age of majority under State law, the IEP must include a statement that the child has been informed of the child’s rights under Part B of the Act, if any, that will transfer to the child on reaching the age of majority under §300.520.</p> <p><b>34 CFR §300.324. Development, review, and revision of IEP. (excerpt)</b></p> <p>(c) Failure to meet transition objectives—</p> <p>(1) Participating agency failure. If a participating agency, other than the public agency, fails to provide the transition services described in the IEP in accordance with §300.320(b), the public agency must reconvene the IEP Team to identify alternative strategies to meet the transition objectives for the child set out in the IEP.</p>	<p>XI. Is there evidence that, for a student beginning at age 16, or younger, if determined appropriate by the ARD committee, the IEP reflects transition requirements?</p> <p>A. Is there evidence that the following issues are considered in the development of the IEP, and, if appropriate, integrated into the IEP?</p> <ol style="list-style-type: none"> <li>1. appropriate student involvement in the student’s transition to life outside the public school system;</li> <li>2. if the student is younger than 18 years of age, appropriate parental involvement in the student’s transition;</li> <li>3. if the student is at least 18 years of age, appropriate parental involvement in the student’s transition, if the parent is invited to participate by the student or the LEA in which the student is enrolled;</li> <li>4. any postsecondary education options;</li> <li>5. a functional vocational evaluation;</li> <li>6. employment goals and objectives;</li> <li>7. if the student is at least 18 years of age, the availability of age-appropriate instructional environments;</li> <li>8. independent living goals and objectives; and</li> <li>9. appropriate circumstances for referring a student or the student’s parents to a governmental agency for services.</li> </ol> <p>If transition issues are appropriately considered and integrated into the IEP, compliance has been identified.</p> <p>If NO, noncompliance has been identified.</p>	<p>Unless student-specific reasons are detailed in the IEP, RF students should have available to them the broad array of transition services and supports available to other students with disabilities, including, for example, career and technology education (CTE) and modifications necessary for the student to participate in CTE.</p> <p>Students with disabilities may not be excluded from transition services, including CTE settings, based on a need for modifications or accommodations identified in the IEP. Necessary modifications or accommodations must be made available in transition and CTE settings.</p>

**Investigatory Topic: Transition Services**

Requirement	Investigatory Questions	Investigatory Considerations
	<p>B. If an RF student's transition goals require the involvement of other agencies, has the LEA coordinated with the identified outside agencies?</p> <p>If YES, compliance has been identified.</p> <p>If NO, noncompliance has been identified.</p> <p>C. If the LEA has determined that other agencies have failed to provide transition services as stated in the IEP, is there evidence that the ARD committee reconvened and identified alternative strategies to meet the transition objectives for the student set out in the IEP?</p> <p>If YES, compliance has been identified.</p> <p>If NO, noncompliance has been identified.</p> <p>D. Is there evidence that the ARD committee annually addresses transition services needs and/or needed transition services in the IEP?</p> <p>If YES, compliance has been identified.</p> <p>If NO, noncompliance has been identified.</p>	

**Other Requirements**

**TEC §29.011. Transition Planning.**

The commissioner shall by rule adopt procedures for compliance with federal requirements relating to transition services for students who are enrolled in special education programs under this subchapter. The procedures must specify the manner in which a student's admission, review, and dismissal committee must consider, and if appropriate, address the following issues in the student's individualized education program:

- (1) appropriate student involvement in the student's transition to life outside the public school system;
- (2) if the student is younger than 18 years of age, appropriate parental involvement in the student's transition;
- (3) if the student is at least 18 years of age, appropriate parental involvement in the student's transition, if the parent is invited to participate by the student or the school district in which the student is enrolled;

**Investigatory Topic: Transition Services**

**Other Requirements (continued)**

- (4) any postsecondary education options;
- (5) a functional vocational evaluation;
- (6) employment goals and objectives;
- (7) if the student is at least 18 years of age, the availability of age-appropriate instructional environments;
- (8) independent living goals and objectives; and
- (9) appropriate circumstances for referring a student or the student's parents to a governmental agency for services.

**19 TAC §89.1055 Content of the Individualized Education Program (IEP). (excerpt)**

- (g) For each student with a disability, beginning at age 16 (prior to the date on which a student turns 16 years of age) or younger, if determined appropriate by the ARD committee, the following issues must be considered in the development of the IEP, and, if appropriate, integrated into the IEP:
  - (1) appropriate student involvement in the student's transition to life outside the public school system;
  - (2) if the student is younger than 18 years of age, appropriate parental involvement in the student's transition;
  - (3) if the student is at least 18 years of age, appropriate parental involvement in the student's transition, if the parent is invited to participate by the student or the school district in which the student is enrolled;
  - (4) any postsecondary education options;
  - (5) a functional vocational evaluation;
  - (6) employment goals and objectives;
  - (7) if the student is at least 18 years of age, the availability of age-appropriate instructional environments;
  - (8) independent living goals and objectives; and
  - (9) appropriate circumstances for referring a student or the student's parents to a governmental agency for services.

**Standard:** For each student with a disability beginning at age 16 (or younger, if determined appropriate by the ARD committee), the IEP has been updated annually and includes a statement of the transition service needs of the student under the applicable components of the student's IEP. If noncompliance is identified, determine if systemic noncompliance exists. Systemic noncompliance is identified when 25% or more of the sample is found to be out of compliance or when significant trends are identified in specific student subgroups.

Investigatory Topic	Extended School Year (ESY) Services
<p><b>Sampling</b></p>	<p>For this investigatory topic, the sample will focus on students who received ESY services and certain students who do not receive ESY services. If patterns of a particular practice or evidence of possible systemic noncompliance emerge, the TEA team will focus its sampling to verify findings. Within the folders selected, consideration will be given to:</p> <ul style="list-style-type: none"> <li>• the instructional arrangement in which RF students are receiving services;</li> <li>• the RF in which RF students reside;</li> <li>• the campus on which RF students are receiving services;</li> <li>• the type of ESY services RF students are receiving;</li> <li>• students who may be failing, retained, or receiving progress reports reflecting a lack of progress during the school year; and</li> <li>• students whose age is not aligned with assigned grade level.</li> </ul>
<p><b>Data Sources</b></p>	<p>Data to Review Prior to On-Site Visit:</p> <ul style="list-style-type: none"> <li>• <i>RF Tracker</i> Data</li> <li>• PEIMS Data</li> <li>• Student-Specific Data Collection</li> </ul> <p>Data to Review During the On-Site Visit:</p> <ul style="list-style-type: none"> <li>• <b>Document Review:</b> ARD/IEP documentation, evaluation data used for ESY purposes, ESY contact hour registers</li> <li>• <b>Interviews:</b> Student, parent/guardian, foster parents, surrogate parents, RF staff, teachers, administrators, diagnostic staff, related service personnel</li> </ul>
<p><b>Further Investigation</b></p>	<p>As the review of folders is conducted and data are analyzed, the review team may evidence possible patterns of practices, trends, and/or indications of individual or systemic noncompliance that may require further investigation to verify the findings. Examples:</p> <ul style="list-style-type: none"> <li>• Few / No RF students receive ESY services;</li> <li>• ESY services (instructional and/or related) provided to RF students are substantially similar;</li> <li>• Only students with particular disabilities receive ESY services; or</li> <li>• Interviews with parents, students, LEA staff or RF staff indicate ESY services are not considered for RF students.</li> </ul>
<p><b>On-Site Strategies</b></p>	<p>As the review proceeds, the review team may determine a need to gather additional data by conducting specific, individual interviews to verify findings. Additionally, the review team may determine that a review of LEA data in the form of student progress reports or staff assignment information is necessary to verify findings on this item.</p>

**Investigatory Topic: Extended School Year (ESY) Services**

Requirement	Investigatory Questions	Investigatory Considerations
<p><b>34 CFR §300.106. Extended school year services.</b></p> <p>(a) General.</p> <p>(1) Each public agency must ensure that extended school year services are available as necessary to provide FAPE, consistent with paragraph (a)(2) of this section.</p> <p>(2) Extended school year services must be provided only if a child's IEP team determines, on an individual basis, in accordance with §§300.320-300.324, that the services are necessary for the provision of FAPE to the child.</p> <p>(3) In implementing the requirements of this section, a public agency may not--</p> <p>(i) Limit extended school year services to particular categories of disability; or</p> <p>(ii) Unilaterally limit the type, amount, or duration of those services.</p> <p>(b) Definition. As used in this section, the term extended school year services means special education and related services that--</p>	<p>XII. Is there evidence that decisions related to the provision of ESY services are made in accordance with federal and state requirements and that students with disabilities who reside in RFs receive individualized consideration for ESY services?</p> <p>A. Is there evidence that RF students with disabilities have equal access to ESY services when compared to other students with disabilities in the LEA?</p> <p>If it is determined that RF students with disabilities do not have substantially similar access to ESY services, noncompliance has been identified.</p> <p>B. Is there evidence that the need for ESY services is considered on an individualized basis for RF students and is not limited to particular categories of disabilities?</p> <p>If it is determined that ESY services are made available or not made available based upon particular categories of disability, noncompliance has been identified.</p> <p>C. Is there evidence that ESY is considered for RF students on an individualized basis as it relates to type, amount, duration, and scope of services provided?</p> <p>If it is determined that the ESY services provided to RF students are substantially similar and not varied based on individualized student data and determination of need (for example, all RF students, regardless of individual needs, receive the same types and amounts of ESY service <u>or</u> related services are never provided during ESY), noncompliance has been identified.</p> <p>If it is determined that the amount of related services to be provided as a part of ESY services is routinely reduced based on a reduced instructional day, regardless of individual student need, noncompliance has been identified.</p>	

**Investigatory Topic: Extended School Year (ESY) Services**

<b>Requirement</b>	<b>Investigatory Questions</b>	<b>Investigatory Considerations</b>
<p>(1) Are provided to a child with a disability—</p> <ul style="list-style-type: none"> <li>(i) Beyond the normal school year of the public agency;</li> <li>(ii) In accordance with the child's IEP; and</li> <li>(iii) At no cost to the parents of the child; and</li> </ul> <p>(2) Meet the standards of the SEA.</p>	<p>D. Is there evidence that formal and/or informal evaluations are used to determine the need for ESY services?</p> <p>If it is determined that evaluations were not used to make determinations for ESY services, including data related to regression after breaks in service, noncompliance has been identified.</p> <p>E. Is there evidence that ESY services are provided to RF students in accordance with their IEP goals and objectives?</p> <p>If it is determined that ESY services do not address the current IEP goals and objectives of the student, noncompliance has been identified.</p> <p>F. Is there evidence that ESY services are provided in less restrictive environments and are not segregated from general education activities that occur during school breaks?</p> <p>If it is determined that ESY services are provided to RF students in separate settings when integrated settings are available and would be appropriate, noncompliance has been identified.</p>	<p>The need for ESY services must be documented from formal and/or informal evaluations provided by the LEA or the parents. The documentation shall demonstrate that in one or more critical areas addressed in the current individualized education program (IEP) objectives, the student has exhibited, or reasonably may be expected to exhibit, severe or substantial regression that cannot be recouped within a reasonable period of time. Severe or substantial regression means that the student has been, or will be, unable to maintain one or more acquired critical skills in the absence of ESY services.</p> <p>An example of an integrated setting would be a campus on which general education summer school, remedial, or enrichment services are provided during the school break.</p>

**Other Requirements**

**19 TAC §89.1065. Extended School Year Services (ESY Services).**

Extended school year (ESY) services are defined individualized instructional programs beyond the regular school year for eligible students with disabilities.

- (1) The need for ESY services must be determined on an individual student basis by the admission, review, and dismissal (ARD) committee in accordance with 34 Code of Federal Regulations (CFR), §300.106, and the provisions of this section. In determining the need for and in providing ESY services, a school district may not:
- (A) limit ESY services to particular categories of disability; or
  - (B) unilaterally limit the type, amount, or duration of ESY services.

## Investigatory Topic: Extended School Year (ESY) Services

### Other Requirements (continued)

- (2) The need for ESY services must be documented from formal and/or informal evaluations provided by the district or the parents. The documentation shall demonstrate that in one or more critical areas addressed in the current individualized education program (IEP) objectives, the student has exhibited, or reasonably may be expected to exhibit, severe or substantial regression that cannot be recouped within a reasonable period of time. Severe or substantial regression means that the student has been, or will be, unable to maintain one or more acquired critical skills in the absence of ESY services.
- (3) The reasonable period of time for recoupment of acquired critical skills shall be determined on the basis of needs identified in each student's IEP. If the loss of acquired critical skills would be particularly severe or substantial, or if such loss results, or reasonably may be expected to result, in immediate physical harm to the student or to others, ESY services may be justified without consideration of the period of time for recoupment of such skills. In any case, the period of time for recoupment shall not exceed eight weeks.
- (4) A skill is critical when the loss of that skill results, or is reasonably expected to result, in any of the following occurrences during the first eight weeks of the next regular school year:
  - (A) placement in a more restrictive instructional arrangement;
  - (B) significant loss of acquired skills necessary for the student to appropriately progress in the general curriculum;
  - (C) significant loss of self-sufficiency in self-help skill areas as evidenced by an increase in the number of direct service staff and/or amount of time required to provide special education or related services;
  - (D) loss of access to community-based independent living skills instruction or an independent living environment provided by noneducational sources as a result of regression in skills; or
  - (E) loss of access to on-the-job training or productive employment as a result of regression in skills.
- (5) If the district does not propose ESY services for discussion at the annual review of a student's IEP, the parent may request that the ARD committee discuss ESY services pursuant to 34 CFR, §300.321.
- (6) If a student for whom ESY services were considered and rejected loses critical skills because of the decision not to provide ESY services, and if those skills are not regained after the reasonable period of time for recoupment, the ARD committee shall reconsider the current IEP if the student's loss of critical skills interferes with the implementation of the student's IEP.
- (7) For students enrolling in a district during the school year, information obtained from the prior school district as well as information collected during the current year may be used to determine the need for ESY services.
- (8) The provision of ESY services is limited to the educational needs of the student and shall not supplant or limit the responsibility of other public agencies to continue to provide care and treatment services pursuant to policy or practice, even when those services are similar to, or the same as, the services addressed in the student's IEP. No student shall be denied ESY services because the student receives care and treatment services under the auspices of other agencies.
- (9) Districts are not eligible for reimbursement for ESY services provided to students for reasons other than those set forth in this section.

**Standard:** All RF students will be considered for and provided with ESY services in alignment with the statute, code, and regulations and to the same extent as other students with disabilities. If procedures aren't implemented according to requirements, noncompliance has been identified. If noncompliance is identified, determine if systemic noncompliance exists. Systemic noncompliance is identified when 25% or more of the sample is found to be out of compliance or when significant trends are identified in specific student subgroups.

Investigatory Topic	Participation in Texas Assessment of Knowledge and Skills (TAKS)
<p><b>Sampling</b></p>	<p>The sample for this investigatory topic will focus on students in grades 3 through 11 who must participate in statewide assessment by taking the Texas Assessment of Knowledge and Skills (TAKS), TAKS (Accommodated), TAKS-Alternate (TAKS-Alt), and TAKS-Modified (TAKS-M). If patterns of a particular practice or evidence of possible systemic noncompliance emerge, the TEA review team will focus the sampling to verify findings. Within the folders selected, consideration will be given to:</p> <ul style="list-style-type: none"> <li>• RF students who do not take the TAKS;</li> <li>• the RF in which RF students reside;</li> <li>• the LEA campus on which RF students receive services;</li> <li>• RF students enrolled in particular grade levels; and</li> <li>• RF students who participate in the TAKS-M or TAKS-Alt.</li> </ul> <p>RF students who participate in only TAKS will be excluded from review for this investigatory topic.</p>
<p><b>Data Sources</b></p>	<p>Data to Review Prior to On-Site Visit:</p> <ul style="list-style-type: none"> <li>• <i>RF Tracker</i> Data</li> <li>• Student-Specific Data Collection</li> <li>• Student Assessment Information</li> </ul> <p>Data to Review During the On-Site Visit:</p> <ul style="list-style-type: none"> <li>• <b>Document Review:</b> ARD/IEP documentation, student cumulative folders, current student evaluations, student assessment results</li> <li>• <b>Interviews:</b> Student, parent/guardian, foster parents, surrogate parents, RF staff, teachers, administrators, diagnostic staff, assessment coordinator</li> </ul>
<p><b>Further Investigation</b></p>	<p>As the review of folders is conducted and data are analyzed, the review team may identify possible patterns of practices, trends, and/or indications of individual or systemic noncompliance that may require further investigation to verify the findings. Examples:</p> <ul style="list-style-type: none"> <li>• Most RF students educated at the site of a facility do not participate in TAKS;</li> <li>• Most RF students educated at an LEA campus do not participate in TAKS;</li> <li>• Most RF students instructed on or near grade level do not participate in TAKS;</li> <li>• Most RF students of certain disabilities who are instructed on or near grade level do not participate in TAKS; or</li> <li>• Most RF students are absent on test day.</li> </ul>
<p><b>On-Site Strategies</b></p>	<p>As the review proceeds, the review team may determine a need to gather additional data by conducting specific, individual interviews to verify findings. Additionally, the review team may determine that a review of LEA data in the form of teacher logs, assessment documentation, or classroom/student observations is necessary to verify findings on this item.</p>

**Investigatory Topic: Participation in Texas Assessment of Knowledge and Skills (TAKS)**

Requirement	Investigatory Questions	Investigatory Considerations
<p><b>34 CFR §300.324. Development, review, and revision of IEP. (excerpt)</b></p> <p>(a) Development of IEP—</p> <p>(1) General. In developing each child's IEP, the IEP team, must consider—</p> <p>(iv) The academic, developmental, and functional needs of the child.</p> <p><b>34 CFR §300.320. Definition of individualized education program. (excerpt)</b></p> <p>(a) General. As used in this part, the term individualized education program or IEP means a written statement for each child with a disability that is developed, reviewed, and revised in a meeting in accordance with §§300.320 through 300.324, and that must include—</p> <p>(6)(i) A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on State and districtwide assessments consistent with section 612(a)(16) of the Act; and</p>	<p>XIII. Is there evidence of participation of RF students in the Texas Assessment of Knowledge and Skills?</p> <p>A. Is there evidence that the IEP reflects the ARD committee's decisions concerning the student's participation in the statewide assessment?</p> <p>The ARD committee must make decisions regarding the assessment in which the student will participate and, for certain assessments, the level at which the student is expected to perform.</p> <p>If YES, compliance has been identified.</p> <p>If NO, noncompliance has been identified.</p> <p>B. Is there evidence that the IEP reflects appropriate decisions concerning the student's participation in the statewide assessment, taking into account the student's current levels of educational performance as well as information related to accommodations and/or the modifications to the content of the curriculum the student is receiving?</p> <p>Evidence would be documented on the most current full individual evaluation or reevaluation of the student, the IEP present levels of academic achievement and functional performance, goals and objectives, progress notes for IEPs, grades, previous assessments, as well as information from individuals, such as parents, guardians, surrogate parents, teachers, counselors, etc. Other relevant information may include student work, informal teacher assessments, and formal teacher assessments created from or provided with instructional materials, as well as the student's confidential student record, which includes the results from the previous test administrations of the statewide assessment.</p> <p>In determining compliance, review guidance contained in the <i>Investigatory Considerations</i> column related to various assessment instruments and additional guidelines contained in the <i>Investigatory Questions</i> column on page 89 of this document.</p>	<p>The program monitor will review information and the decision-making process for each subject area in which the student is required to be assessed.</p> <p>The ARD committee must make all required assessment decisions, including performance level decisions.</p> <p>Reference the <i>Revised ARD Committee Decision-Making Process for the Texas Assessment Program</i> and the <i>Accommodations Manual</i> for more information, including information regarding allowable and nonallowable accommodations for various assessment instruments.</p> <p><b>TAKS:</b></p> <p>If the student receives instruction using on- or near-grade-level TEKS curriculum with no accommodations that would invalidate the TAKS, the ARD committee should determine the student will take TAKS.</p> <p>TAKS (Accommodated):</p> <p>If the student receives instruction using on-or near-grade level TEKS curriculum or modified TEKS curriculum with accommodations documented in the IEP that would invalidate TAKS, the ARD should determine that the student will take TAKS (Accommodated) at his/her enrolled grade level.</p> <p>If the student receives instruction using on- or near-grade-level TEKS curriculum with no accommodations that would invalidate TAKS, but the committee has determined that the student will not take TAKS, noncompliance has been identified.</p>

**Investigatory Topic: Participation in Texas Assessment of Knowledge and Skills (TAKS)**

Requirement	Investigatory Questions	Investigatory Considerations
<p>(ii) If the IEP team determines that the child must take an alternate assessment instead of a particular regular State or districtwide assessment of student achievement, a statement of why—</p> <p>(A) The child cannot participate in the regular assessment; and</p> <p>(B) The particular alternate assessment selected is appropriate for the child; and</p> <p><b>19 TAC §89.1055. Content of the Individualized Education Program (IEP). (excerpt)</b></p> <p>(a) The individualized education program (IEP) developed by the admission, review, and dismissal (ARD) committee for each student with a disability shall comply with the requirements of 34 Code of Federal Regulations (CFR), §300.320 and §300.324.</p> <p>(b) The IEP must include a statement of any individual appropriate and allowable accommodations in the administration of assessment instruments developed in accordance with Texas Education Code (TEC),</p>	<p>If there is evidence that the RF student's expectation level for IEP goals/objectives are not consistent with present levels of academic achievement and functional performance, and thus decisions for TAKS participation are not consistent with present levels of academic achievement and functional performance, noncompliance has been identified.</p> <p>If there is evidence that TAKS participation decisions are based on past history of taking TAKS, but not the student's present levels of performance and instructional level, noncompliance is identified.</p> <p>If there is evidence that a pattern exists in which students with particular disabilities, students from particular RFs, students from particular campuses, etc. are excluded from TAKS participation without appropriate justification, noncompliance has been identified.</p> <p>If there are patterns of modification and accommodation decisions made in relation to statewide assessment determinations that are not supported by student-specific evaluation and IEP information that results in student removal from the TAKS, noncompliance has been identified.</p> <p>If there is evidence that modification and accommodation decisions made in relation to statewide assessment determinations are not in alignment with Texas Assessment Program requirements or that allowable accommodations are not considered in making assessment determinations, resulting in student removal from the TAKS, TAKS (Accommodated), and/or TAKS-M, noncompliance has been identified.</p> <p>C. Is there evidence that a pattern of absences on testing days exists for RF students?</p> <p>Evidence would be documented in students' confidential student records, campus and LEA assessment reports, and in student attendance records.</p> <p>If a pattern exists without a reasonable justification (such as a documented flu outbreak affecting individual students during the testing window), noncompliance is identified.</p>	<p><b>TAKS-Modified (TAKS-M) (when TAKS or TAKS (Accommodated) not appropriate):</b></p> <p>TAKS-M is an alternate assessment based on modified academic achievement standards and is designed for students receiving special education services who meet participation requirements for TAKS-M and for whom TAKS or TAKS (Accommodated) is not appropriate. TAKS-M covers the same grade-level content as TAKS, but has been modified in format and test design.</p> <p>If the student receives instruction using modified TEKS curriculum and meets the participation requirements of TAKS-M, precluding the administration of the TAKS, and has no accommodations documented in the IEP that would invalidate TAKS-M, the ARD committee should determine that the student will take the TAKS-M .</p> <p>ARD committees may decide that a student's knowledge and skills in one or more subject areas can best be assessed with TAKS-M is the student meets <b>all</b> of the following participation criteria.</p> <p>Participation Requirements; The student:</p> <ul style="list-style-type: none"> <li>• Needs extensive modifications and/or accommodations to classroom instruction, assignments, and assessments to access and demonstrate progress in the grade-level TEKS;</li> <li>• Demonstrates academic progress in such a way that even if significant growth occurs during the school year, the ARD committee is reasonably certain that the student will not achieve grade-level proficiency as demonstrated by multiple valid measures of evidence;</li> <li>• Meets some but not all of the participation criteria of TAKS-Alt; and</li> <li>• Requires an alternate form of TAKS which is more closely aligned with instructional modifications in order to demonstrate knowledge of the grade-level TEKS.</li> </ul> <p>If the student receives instruction using modified TEKS curriculum, precluding the administration of the TAKS or TAKS (Accommodated), and has no accommodations documented in the IEP that would invalidate TAKS-M but the ARD committee has determined the student will not take the TAKS-M in an area in which the TAKS-M is available, noncompliance has been identified.</p>

**Investigatory Topic: Participation in Texas Assessment of Knowledge and Skills (TAKS)**

Requirement	Investigatory Questions	Investigatory Considerations
<p>§39.023(a)-(c), or district-wide assessments of student achievement (if the district administers such optional assessments) that are necessary to measure the academic achievement and functional performance of the child on the assessments. If the ARD committee determines that the student will not participate in a general state-wide assessment or district-wide assessment of student achievement (or part of an assessment), the IEP must include a statement of:</p> <p>(1) why the child cannot participate in the regular assessment; and</p> <p>(2) why the particular alternate assessment selected is appropriate for the child.</p>		<p><b>TAKS-Alternate (TAKS-Alt):</b></p> <p>TAKS-Alt is an alternate assessment based on alternate academic achievement standards and is designed for students with significant cognitive disabilities who meet the participation requirements.</p> <p>If the student receives instruction using modified TEKS curriculum through pre-requisite skills and meets the participation requirements for TAKS-Alt, the ARD committee should determine the student will take TAKS-Alt.</p> <p>ARD committees may decide that a student’s knowledge and skills can best be assessed with TAKS-Alt if the student meets all of the following participation criteria.</p> <p>Participation Requirements: The student:</p> <ul style="list-style-type: none"> <li>• Requires supports to access the general curriculum that may include assistance involving communication, response style, physical access, or daily living skills;</li> <li>• Requires direct, intensive, individualized instruction in a variety of settings to accomplish the acquisition, maintenance and generalization of skills;</li> <li>• Accesses and participates in the grade-level TEKS through activities that focus on prerequisite skills;</li> <li>• Demonstrates knowledge and skills routinely in class by methods other than paper-and-pencil tasks; and</li> <li>• Demonstrates performance objectives that may include real life applications of the grade-level TEKS as appropriate to the student’s abilities and needs.</li> </ul> <p>If the student receives instruction using on- or near-grade-level TEKS curriculum with no accommodations that would invalidate TAKS, but the committee has determined that the student will not take TAKS, noncompliance has been identified.</p>

**Investigatory Topic: Participation in Texas Assessment of Knowledge and Skills (TAKS)**

**Other Requirements**

**TEC §39.023. Adoption and Administration of Instruments. (excerpt)**

- (a) The agency shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, writing, mathematics, social studies, and science. All students, except students assessed under Subsection (b) or (l) or exempted under Section 39.027, shall be assessed in:
- (1) mathematics, annually in grades three through seven without the aid of technology and in grades eight through 11 with the aid of technology on any assessment instruments that include algebra;
  - (2) reading, annually in grades three through nine;
  - (3) writing, including spelling and grammar, in grades four and seven;
  - (4) English language arts, in grade 10;
  - (5) social studies, in grades eight and 10;
  - (6) science, in grades five, eight, and 10; and
  - (7) any other subject and grade required by federal law.
- (a-1) The agency shall develop assessment instruments required under Subsection (a) in a manner that allows, to the extent practicable:
- (1) the score a student receives to provide reliable information relating to a student's satisfactory performance for each performance standard under Section 39.0241; and
  - (2) an appropriate range of performances to serve as a valid indication of growth in student achievement.
- (b) The agency shall develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to each student in a special education program under Subchapter A, Chapter 29, for whom an assessment instrument adopted under Subsection (a), even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal committee.
- (c) The agency shall also adopt secondary exit-level assessment instruments designed to be administered to students in grade 11 to assess essential knowledge and skills in mathematics, English language arts, social studies, and science. The mathematics section must include at least Algebra I and geometry with the aid of technology. The English language arts section must include at least English III and must include the assessment of essential knowledge and skills in writing. The social studies section must include early American and United States history. The science section must include at least biology and integrated chemistry and physics. The assessment instruments must be designed to assess a student's mastery of minimum skills necessary for high school graduation and readiness to enroll in an institution of higher education. If a student is in a special education program under Subchapter A, Chapter 29, the student's admission, review, and dismissal committee shall determine whether any allowable modification is necessary in administering to the student an assessment instrument required under this subsection). The State Board of Education shall administer the assessment instruments. The State Board of Education shall adopt a schedule for the administration of secondary exit-level assessment instruments. Each student who did not perform satisfactorily on any secondary exit-level assessment instrument when initially tested shall be given multiple opportunities to retake that assessment instrument. A student who performs at or above a level established by the Texas Higher Education Coordinating Board on the secondary exit-level assessment instruments is exempt from the requirements of Subsection (c-3).

**Investigatory Topic: Participation in Texas Assessment of Knowledge and Skills (TAKS)**

**Other Requirements (continued)**

**TEC §39.027. Exemption. (excerpt)**

- (a) A student may be administered an accommodated or alternative assessment instrument or may be granted an exemption from or a postponement of the administration of an assessment instrument under:
  - (1) Section 39.023(a), (b), (c), or (l) for a period of up to one year after initial enrollment in a school in the United States if the student is of limited English proficiency, as defined by Section 29.052, and has not demonstrated proficiency in English as determined by the assessment system under Subsection (e);
  - (2) Section 39.023(a), (b), (c), or (l) for a period of up to two years in addition to the exemption period authorized by Subdivision (1) if the student has received an exemption under Subdivision (1) and:
    - (A) is a recent unschooled immigrant; or
    - (B) is in a grade for which no assessment instrument in the primary language of the student is available; or
  - (3) Section 39.023(a)(b),(c), or (l) for a period of up to four years, in addition to the exemption period authorized under Subdivision (1), if the student's initial enrollment in a school in the United States was as an unschooled asylee or refugee.

**19 TAC §101.5. Student Testing Requirements. (excerpt)**

- (a) Every student receiving instruction in the essential knowledge and skills shall take the appropriate criterion-referenced tests, as required by the Texas Education Code (TEC), §39.023(a), (b), (c), (l) and §39.027(e).
- (b) A student receiving special education services under the TEC, Chapter 29, Subchapter A, enrolled in Grades 3-10 and who is receiving instruction in the essential knowledge and skills, shall take the assessment of academic skills unless the student's admission, review, and dismissal (ARD) committee determines that it is an inappropriate measure of the student's academic progress as outlined in the student's individualized education program (IEP). If the student's ARD committee determines that the assessment of academic skills is an inappropriate measure of the student's academic progress in whole or part, the student shall take the alternative assessment of academic skills in whole or part. Each testing accommodation shall be documented in the student's IEP in accordance with 34 Code of Federal Regulations (CFR) §300.347(a)(5)(i) and (ii), relating to the content of the IEP and participation in statewide or districtwide assessments.
- (c) A student receiving special education services under the TEC, Chapter 29, Subchapter A, enrolled in Grades 3-10, according to the grade implementation schedule in subsection (b) of this section, and who is not receiving any instruction in the essential knowledge and skills, shall be considered exempt in accordance with the TEC, §39.027. Each exemption shall be documented in the student's IEP in accordance with 34 CFR §300.347(a)(5)(i) and (ii), relating to the content of the IEP and participation in statewide or districtwide assessments. Each exempted student receiving special education services shall take an appropriate locally selected assessment, as determined by the student's ARD committee, in accordance with procedures developed by the Texas Education Agency (TEA). Student performance results on these alternate assessments must be reported to the TEA.

**Standard:** The RF student enrolled in grades 3 through 11 will participate in the statewide assessment system. If it is determined that an RF student has been excluded from assessment or inappropriately included in assessment, noncompliance will be identified. If noncompliance is identified, determine if systemic noncompliance exists. Systemic noncompliance is identified when 25% or more of the sample is found to be out of compliance.

## **Section D. Corrective Action Planning**

### **When Corrective Action Planning is Required**

LEAs that receive an on-site RFM visit will be issued an RFM report within the timelines specified in Sections A and B of this manual. Any area(s) of identified student-specific or systemic noncompliance will be reflected in the RFM report. An LEA will be provided an opportunity to request reconsideration of the TEA's original findings in accordance with 19 TAC §97.1033. An LEA that requests reconsideration of the TEA's original findings generally will be required to do so within 10 calendar days of issuance of the RFM report. Accompanying the request for reconsideration must be any documentation that the LEA wishes the TEA to consider in making a final compliance determination.

If noncompliance is identified by the TEA in the RFM report, the RF LEA is required to complete and submit to the TEA a CAP that incorporates findings of noncompliance identified by the TEA during the on-site visit and reflected in the TEA's RFM report for the LEA.

### **LEA Corrective Action Planning Guidelines**

A comprehensive CAP must be developed by the LEA in response to any findings of student-specific or systemic noncompliance contained in the TEA's RFM report and must include planned corrections for any findings/issues identified by the TEA during the on-site visit.

A CAP must include specific information related to:

- the area(s) of identified noncompliance by investigatory topic and specific legal reference from the IDEA 2004, CFR, TEC, and TAC;
- the goal(s) the LEA will establish to correct the noncompliance;
- qualitative and quantitative measures of correction (measurable evidence or benchmarks of change);
- initiatives or activities planned to achieve the required correction, including compensatory services as necessary to address failure to provide a free appropriate public education;
- materials, supplies, fiscal, and personnel resources needed to implement the activities, including names of responsible parties; and
- the timeline(s) established for purposes of evaluating progress in correction.

Initiatives or activities planned to achieve the required corrections must address:

- possible review/revision of the LEA's operating guidelines;
- steps/procedures that will be taken to correct the student-specific or systemic noncompliance;
- steps/procedures that will be put in place to ensure that the same errors will not occur in the future; and
- how the LEA will monitor itself to know if the noncompliance is being corrected.

### **Timelines for LEA Submission of CAP**

The timeline for LEA submission of a required CAP for a PCR visit will be contained in the TEA letter and RFM report that will be sent to the LEA within 45 calendar days of the on-site visit. The LEA will be required to submit a CAP to the TEA within 30 calendar days of the issuance of the TEA compliance report.

The timeline for LEA submission of a modified CAP for a CAR visit to an LEA that is currently under a CAP will be contained in the TEA letter that will be sent to the LEA within 15 calendar days of the on-site visit. The LEA will be required to submit the modified CAP to the TEA within 15 calendar days of the issuance of the TEA compliance report. If areas of noncompliance not contained in the original monitoring and compliance report are identified, the TEA will issue a new report within 45 calendar days of the on-site visit. The LEA will be required to submit a new CAP to the TEA within 30 calendar days of issuance of the TEA compliance report.

The timeline for LEA submission of a CAP for a CAR visit to an LEA that is no longer under a CAP to verify continued compliance will be contained in the TEA letter and RFM report that will be sent to the LEA within 45 calendar days of the on-site visit. The LEA will be required to submit a CAP to the TEA within 30 calendar days of the issuance of the TEA compliance report.

The TEA may modify any of the timelines noted above in instances where they may be affected by extended school holidays or breaks or by extenuating circumstances. See Sections A and B of this manual for additional information.

### **Template for CAP**

The CAP template that LEAs must complete and submit to the TEA will be provided to the LEA in electronic format. A copy of the required CAP template is included at the end of Section D of this manual

### **TEA Approval of CAP**

The Division of Program Monitoring and Interventions, RF Monitoring Unit, will review a CAP submitted by an LEA to determine whether the CAP reflects goals and activities targeted to correct all identified area(s) of student-specific or systemic noncompliance identified in the TEA's RFM report. Upon receipt of an LEA's CAP submission, the Division of Program Monitoring and Interventions, RF Monitoring Unit, will begin its review process to determine if the CAP is approvable or whether additional information or revision to the CAP document is required. If additional information is required or adjustments to the CAP are needed, TEA staff will communicate with the LEA to address required changes.

In determining approval of the CAP submitted by an LEA, the TEA will consider issues including, but not limited to, the following:

- the degree to which the LEA incorporated any feedback provided by the TEA;
- whether the CAP addresses all areas of noncompliance noted in the RFM report;
- the degree to which the CAP addresses needs in the areas of LEA operations, LEA policies and procedures, technical assistance and professional development, and program oversight and supervision;
- whether measurable evidence of correction has been determined;
- whether timelines established for completion and review of corrective activities are reasonable;
- whether resources necessary for correction have been determined, including the designation of a party responsible for completion of corrective activities;
- how and on what timeline LEA evaluation of progress will occur; and
- the degree to which the CAP appears to be reasonably calculated to result in correction within a one-year period.

### **TEA Validation Activities**

Subsequent to approval of an LEA's CAP, the TEA will conduct ongoing, follow-up verification of corrective action implementation for all identified areas of noncompliance as documented in the RFM report letter and contained in the CAP. An LEA is required to correct any noncompliance items as soon as possible, but in no case may the correction of noncompliance take longer than one calendar year from the date of notification of noncompliance.

TEA verification activities will occur frequently to determine the LEA's progress toward correction of identified noncompliance. If verification indicates that an LEA has not corrected identified noncompliance within one calendar year from the date of notification of findings, the LEA will be subject to interventions and sanctions as referenced in 19 TAC §97.1072 and Section E of this manual.

## Residential Facility Monitoring (RFM) System Corrective Action Plan

<b>LEA Name:</b>	<b>Date Submitted:</b>
<b>County/District #:</b>	<b>ESC Region:</b>

The Texas Education Agency (TEA) has the responsibility to ensure that, within one year of identification of noncompliance in the RFM System, a local education agency (LEA) has implemented corrective actions (CAs) necessary to achieve compliance with state and federal mandates. The LEA is responsible for the submission of a *Corrective Action Plan* (CAP) to the TEA by the due date established in the RFM report. The CAP must be implemented by the LEA to correct identified areas of noncompliance as soon as possible, but no later than one year from identification. Failure to submit the CAP or to implement corrective actions as required will result in further interventions and sanctions.

<b>Identified Noncompliance:</b>  (Enter the investigatory topic and specific legal reference from the <b>CFR, TEC, or TAC</b> )	<b>Desired Result</b>  (Goal(s) that address each identified area of student-specific or systemic noncompliance)	<b>Measurable Evidence of Correction</b>  (Qualitative and/or quantitative measures of correction)	<b>Correction Action Activities</b>  (Initiatives planned to achieve correction)	<b>Resources</b>  (Include personnel responsible)	<b>Timeline for Implementation</b>  (Enter timelines(s) that have been established for evaluation purposes)

## **Section E: RFM Interventions and Sanctions**

In accordance with 19 TAC §97.1072, the TEA will implement sanctions authorized under TEC, Chapter 39, or 19 TAC, Chapter 97, Subchapter EE, Accreditation Status, Standards, and Sanctions, as necessary to promote timely and complete correction of identified noncompliance. A decision to impose sanctions will be based on the accreditation and compliance performance of the LEA, as determined under 19 TAC, Chapter 97, Subchapter EE, 19 TAC §89.1076 (relating to Interventions and Sanctions), and 19 TAC §97.1035 (relating to Procedures for Accreditation Sanctions). RFM sanctions taken under 19 TAC §97.1072 are intended to assist the LEA in achieving compliance and do not preclude or substitute for other responses to or consequences of program ineffectiveness or noncompliance, such as:

- assignment of required professional services, paid for by the LEA;
- required submission of an improvement and/or corrective action plan, including the provision of compensatory services as appropriate, paid for by the LEA;
- expanded oversight including, but not limited to, frequent follow-up contacts with the LEA, submission of documentation verifying implementation of intervention activities and/or a corrective action plan, and submission of LEA/program data;
- public release of RFM review findings;
- issuance of a public notice of deficiencies and planned corrective actions to the LEA's board of trustees;
- denial of requests under TEC, §7.056 and/or §12.114;
- appointment of a monitor, conservator, management team, or board of managers under TEC, Chapter 39, and/or 19 TAC §97.1073;
- reduction, suspension, redirection, or withholding of program funds;
- lowering of the LEA's special education monitoring status; and/or
- lowering of the LEA's accreditation status.