

§89.1050 The Admission, Review, and Dismissal Committee Frequently Asked Questions

ARD Committee Membership

1. Who are the required members of an ARD committee?

The ARD committee shall include: 1) the child whenever it is appropriate; 2) the parent(s) of the child; 3) at least one regular education teacher, if the child is or may be participating in the regular education environment; 4) at least one special education teacher or service provider; 5) an administrator or appropriate designee who is familiar with providing specially designed instruction to students with disabilities, is knowledgeable about the general education curriculum and resources available in the school district, and is authorized to commit resources on behalf of the district; 6) an individual who can interpret the implications of evaluation information; and 7) other individuals with special education expertise regarding the child who are invited at the discretion of the parents or the school district. Whenever practicable the regular education teacher(s) and special education teacher(s) should be familiar with the child and be responsible for part of the child's IEP.

2. What if the child has a suspected or documented visual impairment?

In the case of a student who has a suspected or documented visual impairment, a teacher who is certified in the education of students with visual impairments must be a member of the ARD committee.

3. What if the child has a suspected or documented auditory impairment?

In the case of a student who has a suspected or documented auditory impairment, a teacher who is certified in the education of students with auditory impairments must be a member of the ARD committee.

4. What about a child with suspected or documented deaf-blindness?

In the case of a student with suspected or documented deaf-blindness, a teacher who is certified in the education of students with auditory impairments and a teacher who is certified in the education of students with visual impairments must be members of the ARD committee.

Attendance and Excusal from ARD Committee Meetings

5. Are the above members of an ARD committee required to attend all meetings of the ARD committee?

If the parent of the child and the school district agree in writing that a committee member's attendance is not necessary because that member's area of the curriculum or related services is not being modified or discussed, that member is not required to attend the meeting.

6. Can a required member of an ARD committee be excused from attending a meeting of the ARD committee when that member's area of the curriculum or related services will be discussed during the meeting?

If the committee member who has responsibility for an area of the curriculum or related services submits to the parent and the ARD committee written input regarding the development of the IEP prior to a meeting, that member may be excused from attending the meeting provided that the parent and school district give written consent for the excusal.

Timelines Related to ARD Committee Meetings

7. What is the time period for ARD committee decisions?

Decisions regarding initial eligibility, placement and IEP must be made within 30 calendar days of the completion of the full and individual evaluation (FIE) report. If the 30th calendar day falls during the summer and school is not in session, the ARD committee has until the first day of classes in the fall to finalize these decisions. If the FIE indicates that the student will need extended school year (ESY) services, the eligibility, placement and IEP decisions must be made by the 30th calendar day after the completion of the FIE.

8. What are the timelines for ARD committee decisions for students newly enrolled in a school district?

If the student was being evaluated for special education eligibility in the previous school district, the current school district must coordinate with the previous school district to ensure a prompt completion of the evaluation. This evaluation must be completed within 60 calendar days from the date the current school district receives written consent as required by TEC 29.004.

If the student was already receiving special education services in the previous district, the current district has 30 school days from the date it confirms the student's eligibility for special education to either adopt the IEP from the previous district or create a new IEP. Until the current district adopts the previous IEP or creates a new IEP, the current district must provide a free, appropriate public education (FAPE) to the student, including services comparable to those indicated in the student's previous IEP.

If the student transfers to a school district from another state, the current district must provide a FAPE to the student, including services comparable to those indicated in the student's previous IEP until the new district has an opportunity to conduct an evaluation if necessary and develop an appropriate IEP. The evaluation and the new IEP must be completed within 30 school days.

9. How often should ARD committees meet?

ARD committees must meet at least once per year, but may agree to meet more often.

ARD Committee Agreement

10. Do all members of the ARD committee need to agree about a decision?

Decisions regarding elements of an IEP should be mutually agreed upon whenever possible. If a parent or adult student disagrees with an IEP, the committee may recess for up to ten school days while alternatives are considered, additional data is collected, further documentation is prepared or additional resource persons who might assist are obtained. A date, time and place for continuing the meeting must be determined by mutual agreement before the recess.

If, after the recess, mutual agreement is not reached, the district shall implement the IEP that it has determined to be appropriate and provide prior written notice of this action to the parents or the adult student. A written statement regarding the basis of the disagreement shall be included in the IEP, and members who disagree with the IEP shall be given the opportunity to provide their own statements.

Parents have the right to file a complaint, request mediation, and request a due process hearing at any point when they disagree with decisions of the ARD committee.

11. Can an ARD committee recess for reasons not related to mutual agreement?

A recess of an ARD committee meeting is not restricted to instances in which there are disagreements between committee members.

Amending an IEP

12. When is it appropriate to amend an IEP without convening the ARD Committee?

After the annual ARD committee meeting for a school year, parents and school officials are permitted in some cases to make changes to a child's current IEP without convening an ARD committee meeting. 34 CFR §300.324(a)(4). Instead, the parties may amend or modify the child's IEP through a written document. While the federal regulations do not restrict the types of changes that may be made to an IEP outside of an ARD committee meeting, schools should note that the content of the IEP is defined in the federal regulations and principally relates to the child's present levels of achievement/functioning, goals and objectives, and special education and related services to be provided. 34 CFR §300.320. The definition of IEP does not expressly include the child's eligibility category or placement, though these issues are also typically discussed by the ARD committee. Generally, IEP changes that require considerable discussion among ARD committee members as a whole should not be made using an amendment. Schools, therefore, are advised to exercise caution in using the amendment process.

The federal regulations further require that if changes to an IEP are made outside of an ARD committee meeting, the school must ensure that the child's ARD committee is informed of those changes and that parents are provided with a revised copy of the IEP with the amendments incorporated upon request. 34 CFR §300.324 (a)(4)(i) and (ii).

The regulations require that prior written notice be given to the parents of a child with a disability a reasonable time before a school -- (1) proposes to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or (2) refuses to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child. 34 CFR §300.503. This requirement applies, even if the IEP is revised without convening an ARD Committee meeting.

Although the federal regulations do not describe what information must be included in a written agreement to amend an IEP, it is recommended that the agreement reflect the following: 1) that it is amending an IEP adopted at an ARD committee meeting held on a specific date; 2) that the parents and the school have agreed to amend the IEP without convening a formal ARD committee meeting; 3) the specific changes to the IEP that have been agreed to; 4) the date the changes will go into effect; and 5) that all ARD committee members will be promptly informed of the changes and that the parent will be given a copy of the revised IEP upon request.

The written document must be signed by the parent and someone who is authorized to act for the school. Schools will need to decide which school official(s) should be given such authority. Some schools have two school officials sign -- a campus administrator and a special education staff member. The campus administrator would typically have the authority to act for the school, while the special education staff member would be in the best position to understand the procedural and implementation requirements.