

# OPERATING PROCEDURES

## SPECIAL FACTORS—LIMITED ENGLISH PROFICIENCY

Goose Creek CISD

101911

Legal Framework: [Special Factors—Limited English Proficiency](#)

Category: Admission, Review, and Dismissal Committee

Template update Oct 2016

"A few commenters expressed concern that the regulations regarding special factors for the [individualized education programs] IEP Team to consider in developing IEPs imply that particular methods, strategies, and techniques should be used. . . . The requirements in §300.324 are not intended to imply that a particular method, strategy, or technique should be used to develop a child's IEP. For example, while §300.324(a)(2)(i) requires the IEP Team to consider the use of positive behavioral interventions and supports, and other strategies, it does not specify the particular interventions, supports, or strategies that must be used." 71 Fed. Reg. 46683 (August 14, 2006).

"The Act requires that the IEP team consider the language needs of a child with limited English proficiency (LEP) as those needs relate to the child's IEP. It is important that the IEP team consider how the child's level of English language proficiency affects the special education and related services that the child needs in order to receive [free appropriate public education] FAPE. Any decisions regarding the extent a child with limited English proficiency will receive instruction in English or the child's native language, the extent to which a child with limited English proficiency with a disability can participate in the general curriculum, or whether English language tutoring is a service that must be included in a child's IEP, must be made by the child's IEP team and based on the individual needs of the child. Title VI of the Civil Rights Act of 1964 also requires school districts to provide children with limited English proficiency with alternative language services to enable them to acquire proficiency in English and to provide them access to the total range of educational services provided by the school, including special education and related services. The IEP team must also address whether the special education and related services that the child needs will be provided in a language other than English." [OSEP Letter to Ralabate \(October 9, 2002\)](#).

### **Application Guidance**

- [Guidance Related to ARD Committee and LPAC Collaboration](#) (TEA)
- [Process for Considering Special Exit Criteria from Bilingual/English as a Second Language \(ESL\) Services](#) (TEA)

Through the implementation of the Goose Creek CISD policies and procedures as outlined in the [Legal Framework](#) for the Child-Centered Special Education Process, the Goose Creek CISD ensures that in the case of a child with limited English proficiency, the admission, review, and dismissal (ARD) committee considers the language needs of the child as required by the Individuals with Disabilities Education Act (IDEA) and its accompanying federal regulations, state statutes and regulations.

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**PERSONS RESPONSIBLE:** Director of Special Education, Director of Bilingual/ESL Programs; ARD Committee Members and LPAC Committee Members

**TIMELINES:** 2020-2021 at each Annual ARD and LPAC meeting

**MATERIALS:** eSped forms

**Limited English Proficient (LEP)**

**TAC §89.1225, 34 CFR 300.324(a)(2)(ii)(iv)**

Below is a replication of the Guidelines for Identification of Exit of LEP students with Disabilities: LPAC/Special Education Collaboration Team Document

## Introduction

This document has been developed as a guide for identification and exit of LEP students with disabilities. It represents the interpretation of Subchapter BB of the 19 Texas Administrative Code (TAC). This guide provides the most current revision of the Texas Administrative Code that includes three additions to state law:

1. LPAC & ARD Collaboration
2. Identification of LEP students
3. Exiting of LEP students

## Identification & Exit of LEP Students

Previously, the LPAC was solely responsible for identifying and exiting LEP students. With the changes made to the TAC, the LPAC and ARD committee will collaborate to identify students as LEP and to exit students from the bilingual and ESL programs. Sections from the TAC have been provided below regarding LEP students with disabilities:

### *TAC§89.1225 Testing and Classification of Students*

*(f) For entry into a bilingual education or English as a Second Language (ESL) program, a student shall be identified as Limited English Proficient using the following criteria:*

*(4) The Admission, Review, and Dismissal (ARD) committee, in conjunction with the Language Proficiency Assessment Committee (LPAC) shall determine an appropriate assessment instrument and designated level of performance for indicating Limited English Proficiency as required under subsection (d) of this section for students for whom those tests would be inappropriate as part of the Individualized Education Program (IEP). The decision for entry into a bilingual education or English as a Second Language (ESL) program shall be determined by the ARD committee in conjunction with the LPAC in accordance with §89.1220(g) of this title (relating to LPAC).*

*(k) The ARD committee, in conjunction with the LPAC shall determine an appropriate assessment instrument and performance standard requirement for exit under subsection (h) of this for students for whom those tests would be inappropriate as part of the IEP. The decision to exit a student who receives both special education*

*and special language services from the bilingual education or ESL program is determined by the ARD committee in conjunction with the LPAC in accordance with applicable provisions of subsection (h) of this section.*

As a result of the above changes to state law, members of the ARD committee need to be aware of current educational research as it pertains to students who are LEP; while the members of the LPAC need to have basic knowledge of disabilities and how these disabilities can impact students' linguistics needs as second language learners.

### **ARD COMMITTEE IN CONJUNCTION WITH THE LANGUAGE PROFICIENCY COMMITTEE" (ARD Committee/LPAC)**

State law specifies that the ARD committee "in conjunction with" LPAC determines an appropriate assessment instrument and performance standard requirement for entry and exit of LEP eligibility for students with disabilities being served in special education. What is meant by "the ARD committee in conjunction with the LPAC"? TEA stated in the February 6, 2008 TETN that the "ARD in conjunction with LPAC" responsibilities could be accomplished in an informal meeting of key ARD and key LPAC members, and that the results of the informal meeting must be documented in some fashion. If a school district decides to have informal meetings to determine an appropriate assessment instrument and designated level of performance for LEP identification and exit of students who are served in special education, then the results of the meeting must be forwarded and discussed in both the ARD meeting and the LPAC meeting.

In the ARD/LPAC meeting, the consensus members of the ARD committee make the final decision on issues of special education services, although the input of all ARD/LPAC team members should be invited and taken into consideration. The entire ARD/LPAC team, however, sets the criteria for LEP identification and exit, as well as determines if the LEP entry and exit criteria have been successfully met.

### **Goose Creek CISD ARD/LPAC Collaboration Model**

#### **Campus ARD/LPAC Collaboration Team**

As noted above, TEA allows school districts to determine which members of the ARD and LPAC are key members. Goose Creek CISD procedure defines the "ARD/LPAC Collaboration Team" as the key members and will include a minimum of three members:

1. Campus Administrator (member of both ARD and LPAC committees)
2. Special Education Case Manager (member of ARD committee)
3. LPAC Representative (member of LPAC committee)

### Informal Meeting (Staffing)

At a student's staffing, the responsibilities of the ARD/LPAC collaboration team are as follows:

- Discuss identification for LEP services
- Recommend entry and/or exit criteria
- Document ARD/LPAC Collaboration Team recommendations on the *ARD/LPAC Collaboration* form. This staffing form is only used to document recommendations for the ARD/LPAC committee and should be kept in the LPAC folder. This form does not go in the student's state audit folder.

### ARD Meeting

At a student's ARD meeting, the responsibilities of the ARD/LPAC collaboration team members are as follows:

- Discuss identification for LEP services
- Recommend or approve entry and exit criteria
- Present ARD/LPAC collaboration recommendations
- Make program decision based on language of instruction (Bilingual Education or English as a Second Language)
- Monitor progress of student
- At end of year, determine if exit criteria have been met as documented on ARD/LPAC LEP supplement form.
- If the established modified exit criteria have been met, a Review ARD or an amendment must be held.

### Identification of LEP Students

State law requires that any student with a language other than English on the Home Language Survey must be tested for English proficiency. Upon initial enrollment all students must have a Home Language Survey (HLS) completed in their student record (only one: The original or a copy of original). The HLS shall be administered to each student new to the district and to students previously enrolled who were not surveyed in the past. If the HLS indicates a language other than English, testing must be initiated to determine English proficiency

All students who are being tested for English proficiency must be assessed in the following areas:

- Listening (grades PK-12)
- Speaking (grades PK-12)
- Reading (grades 2-12)
- Writing (grades 2-12)

**Exiting of Special Education/LEP Students**

LEP exit criteria for students with disabilities should follow as closely as possible the state and local exit criteria, yet take into consideration the student's disability. For students whose disability would not require a change in the criteria and for students who can be reasonably expected to meet it, the LEP Goose Creek CISD exit criteria should be utilized and not modified.

In rare cases, a LEP student receiving special education services may qualify to be exited using modified criteria permitted under TAC 89.1225(k), which special considerations to a LEP student for whom assessments and/or standards under TAC 89.1225 (h) are not appropriate because of the nature of a student's particular condition. Students considered for special exit criteria under TAC 89.1225(k) should only be those designated to take STAAR Alt 2 as determined by the ARD committee in conjunction with the LPAC.

Students should only be exited from the bilingual or ESL program at the end of the school year.

**ARD/LPAC Collaboration Team Staffing and ARD Documentation Process and Forms**

Whenever the ARD/LPAC collaboration team members meet to collaborate in the interest of the student, they should consider information regarding the cognitive and linguistic abilities, as well as the

affective needs, of the student. These joint meetings may occur not only to facilitate a student entry into and exit out of the respective programs but also to review progress, determine linguistic accommodations and discuss other issues related to the student's Individualized Education Plan (IEP). Recommendations from these collaborative efforts must be presented at ARD committee meetings to ensure that the appropriate considerations regarding the second language acquisition in English are addressed in the development of the student's IEP. Decisions relating to services that impact second language acquisition must also be documented by the LPAC.

The information contained in this document was compiled using several sources, specifically:

- Texas Administrative Code §89.1125
  - o Commissioner's Rules Concerning State Plan for Educating Limited English Proficient students
- Texas Education Agency, Special Education Department, *Guidance Related to ARD Committee and LPAC Collaboration*

- Texas Education Agency, Process for Considering Special Exit Criteria from Bilingual/English as a Second Language (ESL) Services

**Frequently Asked Questions**

1. *After an ARD is held for a student receiving Special Education services who has met the criteria for exit from LEP and the LPAC meets to reclassify the student, does there need to be a LPAC representative at the student's ARD meeting?*

No. Once the student has been exited from LEP, the LPAC will monitor the student for two years according to the Commission Rules guidelines. There is no need for LPAC representative at the ARD once the student has been exited.

2. *We understand that the modified Exit criteria must be set in an ARD PRIOR to State Assessment. Does this include TELPAS?*

Yes. TELPAS is part of the State Assessment for students with disabilities who are also identified as LEP. Therefore, if there is consideration to modify the Exit criteria, this ARD/LPAC Collaboration team meeting and ARD to review the modified Exit criteria all must be held prior to the beginning of the TELPAS window.

3. *The Special Ed/LEP process indicates that once the state assessment scores are received, an ARD must be held to review the scores and determine if the modified LEP criteria was met and to discuss the plan to remove student from LEP services. After the ARD meeting, a LPAC meeting must occur to review the ARD recommendation and formally exit the student from LEP. The LPAC procedures note that this should occur at the end of the year. How do we handle the situation if an ARD is not held prior to summer dismissal due to scheduling difficulties?*

If the ARD and LPAC meetings are not completed at the end of the year, they should be scheduled prior to the first day of instruction during the next year. They can be exited from LEP at the beginning of the year under these circumstances. It is recommended that if there are a lot of students that will need ARDs and LPAC meetings at the end of the year, focus on the students who will be transitioning to a new campus first (5<sup>th</sup> and 8<sup>th</sup> graders).

4. *Should LPAC/ARD Collaboration meetings take place before an ECSE student is ever labeled as LEP? (In thinking of 3 year-olds who are tested when they turn 4)*

Yes, for those students who are evaluated through childfind (3 year-olds) and will be turning 4 prior to September 1, an ARD/LPAC Collaboration team meeting should take place prior to an ARD meeting. It is recommended that this process be

postponed until late in the school year of the student's first year if he/she is 3 years old so data can be gathered (i.e., if student turns 3 in October and begins ECSE, gather data and then the collaboration staffing and ARD should occur in late April or May).

5. *What happens if the student does not meet the anticipated exit criteria, do we have to conduct another ARD/LPAC collaboration meeting and ARD?*

If a student with a disability does not meet State Assessment expectations, then an ARD meeting must be scheduled to consider additional interventions, changes to IEP, etc. Therefore, during the ARD meeting to discuss the student's failure on the State Assessment, the previous ARD/LPAC LEP supplement should be reviewed along with any previously set modified criteria.