

FAPE

AMENDMENT WITHOUT A MEETING

August 30, 2022

Model operating procedures created by



Student Solutions

and

**Thompson
& Horton** LLP
ATTORNEYS | COUNSELORS

Disclaimer: This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional advisor. Consult with your attorney or professional advisor to apply these principles to specific fact situations.

©2020 by Texas Association of School Boards, Inc.

TASB grants members/subscribers of TASB Student Solutions™ the limited right to customize this publication for internal (non-revenue generating) purposes only.



CONTENTS

AMENDMENT WITHOUT A MEETING 1

 What is Required 1

 Definitions 1

 Additional Procedures 1

 Evidence of Implementation 3

 Resources 7

CITATIONS 7



AMENDMENT WITHOUT A MEETING

What is Required

After the annual ARD meeting, changes to a student's IEP may be made either:

- By the entire ARD Committee at an ARD Committee meeting; or
- By amending the IEP rather than by redrafting the entire IEP.

Specifically, in making changes to a student's IEP after the annual ARD meeting for a school year, the parent of a special education student and the District may agree not to convene an ARD meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the student's current IEP (the "ARD Amendment"). If changes are made to the student's IEP through an ARD Amendment, the Campus Special Education Personnel must ensure that the ARD Committee is informed of those changes. Upon request by the parent, the Campus Special Education Personnel will provide the parent with a revised copy of the IEP with the amendments incorporated.

Eligibility determinations, changes of placements, and manifestation determination reviews, in accordance with federal law, may not be conducted through the amendment without a meeting process.

Definitions

"Change of placement" means a proposed change to the IEP which substantially or materially affects the composition of the educational program and services provided to the student. A simple change in the location of a building or facility is not, generally, viewed to be a change in placement where there are no significant changes in the educational program.

Individualized Educational Program ("IEP") means a written statement for each special education student that includes the student's present levels of academic achievement and functional performance, participation in state and district-wide assessments, transition services, annual goals, special factors, special education, related services, supplementary aids and services, extended school year services, and least restrictive environment.

Additional Procedures

In making changes to a student's IEP after the student's annual ARD meeting, the parent of a student with a disability—or an adult student—and Campus Special Education



Personnel may agree not to convene an ARD meeting for the purposes of making those changes, and instead may develop a written document to amend or modify the student's current IEP. Campus Special Education Personnel should document and maintain a record of any communications between the parent and Campus Special Education Personnel regarding the IEP amendment.

The purpose of the IEP amendment is to make minor changes to the IEP during the year it is in effect. Examples of when an IEP amendment without a meeting may be appropriate include:

- To correct minor errors or discrepancies in ARD documentation;
- To make changes in the Present Level of Academic Achievement and Functional Performance ("PLAAFP");
- To amend measurable short-term objectives where doing so will not result in a change in service delivery hours and/or student placement;
- To add or remove instructional accommodations and/or supplementary aids where doing so will not result in a change in service delivery hours and/or student placement;
- To add or remove assistive technology devices where doing so will not result in a change in service delivery hours and/or student placement;
- To modify transportation services once eligibility for transportation is established;
- To increase or decrease the frequency of speech or related services that is not a change in placement; and
- To modify statewide testing accommodations.

If substantial or comprehensive changes need to be made to a student's IEP, an ARD meeting should be convened to develop a new, complete IEP. An IEP amendment without an ARD meeting cannot be utilized for eligibility determinations, to change a student's placement, or for manifestation determination reviews and for any other purpose for which the District determines an IEP amendment without a meeting may not be used.

If Campus Special Education Personnel and the parent agree to amend the student's IEP without convening an ARD Committee meeting, Campus Special Education Personnel must obtain the parent's signature indicating agreement or disagreement with the proposed change. [DISTRICT SHOULD DETERMINE IF THIS IS APPROPRIATE FOR THEIR PROCEDURES]; Campus Special Education Personnel must also provide the parent with Prior Written Notice of the amendment, as well as a revised copy of the IEP with the amendment(s) incorporated. See [PRIOR WRITTEN NOTICE].

If the parent disagrees with the amendment or fails to return the signed agreement, an ARD meeting must be held to discuss the changes. If the parent returns the signed agreement, indicating agreement with the amendment, the campus must wait 5 days from the time Campus Special Education Personnel receive the signed agreement to implement the changes, unless the parent has agreed otherwise. Once the IEP is



amended, the ARD Committee members must be informed of those changes. An IEP amendment cannot replace the required annual ARD meeting, and parents continue to have the option to call an ARD meeting to consider IEP changes at any time.

In summary, Campus Special Education Personnel should complete the following steps to amend an IEP without an ARD Committee meeting:

- Determine that there is consensus among District-based members of the ARD Committee that the IEP amendment is indicated and appropriate;
- Discuss the proposed IEP amendment with the student's parent in person or by phone and provide written documentation to the parent regarding the proposed IEP amendment;
- Obtain parent signature of agreement to amend the IEP;
- Distribute the signed amendment to all ARD members and implementers;
- File the original, signed amendment in the student's eligibility form with the annual IEP being amended;
- Inform the ARD Committee of the amendment;
- Provide parent with Prior Written Notice;
- Provide parent with a copy of the IEP with the amendments incorporated.

At least annually, Campus and District Personnel will receive training outlining the District's procedures regarding IEP amendments, including when changes cannot be made through amendment without a meeting (i.e., eligibility determinations, changes of placements, and manifestation determination reviews).

The District will maintain documentation requirements of compliance associated with Texas Student Data System (TSDS), Public Education Information Management System (PEIMS), and State Performance Plan (SPP). District staff will provide training, with follow up, to ensure the documentation required is in place and compliant.

ARD vs. AMENDMENT TO ARD/IEP

IDEA streamlines the ARD process by adding a provision to the law. Under Section 614(d)(3)(D), the district and parents may agree not to convene an ARD meeting for purposes of making changes to the child's program once the annual ARD meeting has been held. Instead, they may develop a written document to modify or amend the current IEP/ARD. If the ARD is amended without an ARD meeting, the district must provide the parents with a revised copy of the IEP (with the amendments incorporated). The parent must be provided with the Prior Written Notice of Change along with the Amended IEP document within 5 days of the completion of the Amendment to the ARD. The LEA representative will agree to the changes made in the amendment on behalf of the district. All persons implementing the child's IEP will receive relevant changes documented in the amendment.



Goose Creek CISD will utilize Amendment to the ARDs for certain situations. Following is an analysis document for Goose Creek CISD which will help you determine if the action being considered can be addressed by amending the ARD or if an ARD must be held.

ARD vs. Amendment to ARD/IEP Analysis

ISSUE/ITEM	ARD	Amendment
IEP/MODIFICATIONS/SERVICE		
<ul style="list-style-type: none"> Changes in Present Level of Academic Achievement and Functional Performance (PLAAFP) 		√
<ul style="list-style-type: none"> Add/Edit/Delete measurable short term objectives which will not result in a change in service delivery hours and/or placement (general education/special education and/or related services) 		√
<ul style="list-style-type: none"> Add/Edit/Delete measurable annual goals and/or short term objectives which will result in a change in service delivery hours and/or placement (general education/special education and/or related services.) 	√	
<ul style="list-style-type: none"> Add/Edit/Delete instructional accommodations and/or supplementary aids and services which will not result in a change in service delivery hours and/or placement). 		√



<ul style="list-style-type: none"> Develop IEPs thirty (30) school days following an Agreement to Implement for a transfer student 	√	
<ul style="list-style-type: none"> Change in existing technology devices and/or services needed to implement a student's IEP which will not result in a change in service delivery hours and/or placement. 		√
<ul style="list-style-type: none"> Changes in related services (type and/or services hours) 	√	
PLACEMENT		
<ul style="list-style-type: none"> Any change in placement (i.e. General Ed/IS to Resource, BSP to Resource, Life Skills to SILC, etc.) 	√	
ASSESSMENT		
<ul style="list-style-type: none"> Any change in type of State Assessment administered to student 	√	
<ul style="list-style-type: none"> Modify/adjust/add/delete accommodations to State Assessment 		√
ESY		
<ul style="list-style-type: none"> Consider need for ESY 	√	
BEHAVIOR INTERVENTION PLAN (BIP)		



<ul style="list-style-type: none"> • Add/Edit/Delete BIP objectives which will not result in a change in service delivery hours and/or placement (general education/special education and/or related services) 		√
<ul style="list-style-type: none"> • Add/Edit/Delete BIP goals/objectives which will result in a change in service delivery hours and/or placement (general education/special education and/or related services) 	√	
ELIGIBILITY		
<ul style="list-style-type: none"> • Any change in Eligibility (add or remove) 	√	
GRADUATION		
<ul style="list-style-type: none"> • Change in Graduation Plan Option 	√	
PERSONAL CARE SERVICES (PCS)		
<ul style="list-style-type: none"> • To describe Personal Care Services in more detail if there are already IEPs Goals and Objectives in Annual ARD 		√
<ul style="list-style-type: none"> • To add Personal Care Services (this would be the same as adding related services or IEP services) 	√	

There may be circumstances in which an ARD was archived with an error and an



Amendment ARD may be appropriate to correct the error.

Evidence of Implementation

- IEP Amendment
- Parent's Written Agreement
- Documentation of Amendment Discussions
- Prior Written Notice
- ARD/IEP
- Documentation for the state in TSDS, PEIMS, and SPP
- Frontline forms

Resources

[The Legal Framework for the Child-Centered Special Education Process: Amendment Without a Meeting - Region 18](#)

[Amending an IEP Without a Meeting - Partners Resource Network](#)

[OSERS Dear Colleague Letter \(Aug. 1, 2016\) - U.S. Department of Education](#)

[OSERS Questions and Answers on Individualized Education Programs \(IEPs\), Evaluations, and Reevaluations \(Sept. 2011\) - U.S. Department of Education](#)

CITATIONS

Board Policy EHBAA; Board Policy EHBAB; 20 U.S.C. 1414, 1415(k); 34 CFR 300.116, 300.306, 300.324(a), 300.530(e)