



Special Education Policies

These local board policies constitute “policies and procedures” for purposes of satisfying 34 CFR 300.201. Uplift Education will follow these policies to ensure IDEA and its accompanying federal regulations, State statutes and regulations are implemented for each qualifying student with a disability. The special education program at Uplift Education operates under local district board policies and the Special Education Operating Procedures.

Uplift Education’s local board policies and Special Education Operating Procedures comply with The Texas Legal Framework for the Child Centered Special Education Process, located [here](#).

Uplift Education utilizes district forms to document compliance with these policies.

Training for personnel responsible for implementing these policies is conducted annually.

Uplift Education complies with all requirements for monitoring Special Education compliance as adopted by the Texas Education Agency.

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SECTION 1: NONDISCRIMINATION

NONDISCRIMINATION STATEMENT

Uplift Education does not discriminate on the basis of race, color, national origin, sex or disability in any of its programs or activities, and all programs and activities, and benefits of such programs and activities, are accessible to individuals with disabilities as defined by Section 504 and/or IDEA. Uplift Education does not deny admission to a child solely because of that child's need for Section 504 Services, Special Education or related aides and services, regardless of cost.

42 U.S.C. 12132 (Americans with Disabilities Act); 29 U.S.C. 794(a) (Section 504 of the Rehabilitation Act of 1973); 34 CFR 104.4 (Section 504 regulations); 20 U.S.C. 1400 et seq. (Individuals with Disabilities Education Act).

FREE APPROPRIATE PUBLIC EDUCATION

Uplift Education shall provide eligible students with disabilities the right to a free appropriate public education ("FAPE"), which may include instruction in the regular classroom, instruction through special teaching, or instruction through approved contracts. Uplift Education shall supplement the instruction of a student with disabilities through the provision of related services when appropriate.

Tex. Educ. Code 29.003(a).

"Free Appropriate Public Education" means special education and related services that—

- (a) have been provided at public expense, under public supervision and direction, and without charge;
- (b) meet the standards of the Texas Education Agency;
- (c) include appropriate preschool, elementary school, or secondary school education in Texas; and
- (d) are provided in conformity with IEP requirements under the Individuals with Disabilities Education Act ("IDEA").

20 U.S.C. 1401(9).

SPECIAL EDUCATION

"Special education" means specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including (i) instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and (ii) instruction in physical education.

It also includes speech-language pathology services, or any other related service, if the service is considered special education rather than a related service in Texas; travel training; and vocational education.

"Specially designed instruction" means adapting, as appropriate to the needs of an eligible child under the IDEA, the content, methodology, or deliver of instruction—

- (i) to address the unique needs of the child that result from the child’s disability; and
- (ii) to ensure access of the child to the general curriculum, so that the child can meet the educational standards within the jurisdiction of Uplift Education that apply to all children.

34 CFR 300.39.

RELATED SERVICES

“Related services” means transportation, and such developmental, corrective, and other supportive services as may be required to assist a child with a disability to benefit from special education, including the early identification and assessment of disabling conditions in children.

The term includes speech-language pathology and audiological services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, counseling services, including rehabilitation counseling, orientation and mobility services, and medical services for diagnostic or evaluation purposes. Related services also include school hearing services and school nurse services, social work services in schools, and parent counseling and training.

The term does 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.

20 U.S.C. 1401(26); 34 CFR 300.34.

INDIVIDUALIZED EDUCATION PROGRAM (IEP)

IEP means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with 34 CFR 300.320 through 300.324.

34 CFR 300.22; 300.320.

LEAST RESTRICTIVE ENVIRONMENT

Uplift Education shall ensure that, to the maximum extent possible, children with disabilities are educated with children who are not disabled. Special classes, special schooling, or other removal of children with disabilities from the regular educational environment shall occur only if the nature or severity of the child’s disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

20 U.S.C. 1412(a)(5); 34 CFR 300.114(a)(2).

DISCIPLINE

All disciplinary actions regarding students with disabilities shall be determined in accordance with applicable federal regulations, Education Code Chapter 37, 19 Administrative Code 89.1053, and Uplift Education policy. *19 TAC 89.1050(k).*

INSTRUCTIONAL ARRANGEMENTS AND SETTINGS

Uplift Education must ensure that a continuum of alternative placements is available to meet the needs of children with disabilities for special education and related services. The continuum must include the alternative placements listed in the definition of special education under 34 CFR 300.39 (instruction in regular classes, special classes, special schools, home instruction, and instruction in hospitals and institutions); and make provision for supplementary services (such as resource room or itinerant instruction) to be provided in conjunction with regular class placement.

34 CFR 300.115.

Instructional arrangements and settings shall be based on the individual needs and IEPs of eligible students receiving special education services. Instructional arrangements and settings include:

1. **Mainstream:** The mainstream instructional arrangement/setting is for providing special education and related services to a student in the regular classroom in accordance with the student's IEP. Qualified special education personnel must be involved in the implementation of the student's IEP through the provision of direct, indirect, and/or support services to the student and/or the student's regular classroom teacher(s) necessary to enrich the regular classroom and enable student success. The student's IEP must specify the services that will be provided by qualified special education personnel to enable the student to appropriately progress in the general education curriculum and/or appropriately advance in achieving the goals set out in the student's IEP. Examples of special education and related services provided to a student in the mainstream setting include, but are not limited to, direct instruction, helping teacher, team teaching, co-teaching, interpreter, education aides, curricular or instructional modifications or accommodations, special materials or equipment, consultation with the student and his or her general classroom teacher(s) of other general or special education service providers, staff development, and reduction of ratio of students to instructional staff members. Monitoring student progress in and of itself is not a special education service and cannot be listed as the only specially designed instruction documented in a student's IEP.
2. **Homebound:** The homebound instructional arrangement/setting is for providing special education and related services to students who are served at home or hospital bedside. Students served on a homebound or hospital bedside basis are expected to be confined for a minimum of four weeks for medical or psychological reasons only, as documented by a physician licensed to practice in the United States. If the student is chronically ill, the student's ARD Committee shall determine whether the weeks of confinement need to be consecutive. Home instruction may also be used for special education services to students aged three through five years when determined appropriate by the student's ARD committee. Remote homebound instruction may also be provided if a waiver request is approved by the Texas Education Agency and the student's ARD committee has determined, in a manner consistent with state and federal law, that the remote homebound instruction to be provided meets the needs of the student and all other requirements of homebound instruction is met. Documentation by a physician does not guarantee the placement of a student in homebound placement. A student's ARD committee, as appropriate, determines the amount of services to be provided to the student in this instructional setting in accordance with federal and state laws, rules, and regulations, including the provisions specified in 19 Texas Administrative Code 89.1005(b). The student's ARD Committee, if appropriate, will also review and determine the length of the transition period back to the school-based setting

based on current medical information. The instructional arrangement/setting also applies to students confined to or educated in hospitals.

3. Hospital class: The hospital class instructional arrangement/setting is for providing special education and related services provided by Uplift Education personnel in a classroom, hospital facility, or residential care and treatment facility not operated by Uplift Education. If a student residing in the facility is provided special education and related services on a District campus but the student's parent does not reside within the District's boundaries, the student is considered to be in the residential care and treatment facility instructional arrangement/setting. If a student residing in the facility is provided special education and related services at the District and the parent, including a surrogate parent, resides within the District's boundaries, the student's instructional arrangement/setting shall be based on the services provided at the campus on the same basis as a resident student residing with his or her parents.
4. Speech therapy: The speech therapy instructional arrangement/setting is for providing speech therapy services whether in a regular education classroom or other setting. When the only special education or related service provided to a student is speech therapy, then this instructional arrangement may not be combined with any other instructional arrangement. If a student's IEP indicates that a special education teacher is responsible for implementing the student's IEP but does not indicate how that teacher provides a special education service, the student is in the speech therapy instructional arrangement/setting. Likewise, when a student receives speech therapy but no other special education service, the student is in the speech therapy instructional arrangement/setting.
5. Resource room/services: The resource room/services instructional arrangement/setting is for providing special education and related services to a student in a setting other than the regular education classroom for less than 50% of the student's instructional day. A student's instructional day is defined as that portion of the school day in which instruction takes place (not to include lunch, recess, passing periods, etc.).
6. Self-contained (mild, moderate, or severe) regular campus: The self-contained (mild, moderate, or severe) regular campus instructional arrangement/setting is for providing special education and related services to a student who is in a setting other than general education for 50% or more of the student's instructional day on a regular school campus. A student's instructional day is defined as that portion of the school day in which instruction takes place (not to include lunch, recess, passing periods, etc.). For funding purposes, mild/moderate will be considered at least 50% but no more than 60% of the student's instructional day, and severe will be considered more than 60% of the student's instructional day.
7. Off home campus: The off-home campus instructional arrangement/setting is for providing special education and related services to the following: (1) a student who is one of a group of students from more than one LEA served in a single location when FAPE is not available on an Uplift Education campus; (2) a student in a community setting, facility, or environment operated by Uplift Education that prepares the student for postsecondary education/training, competitive integrated employment, and/or independent living in coordination with the student's individual transition goals, with regularly scheduled instruction or direct involvement provided by Uplift Education personnel; (3) a student in a facility not operated by Uplift Education with instruction provided by Uplift Education personnel; or (4) a student in a self-contained program at a separate campus operated by Uplift Education that provides only special education and related services.

8. Nonpublic day school: The nonpublic day school instructional arrangement/setting is for providing special education and related services to students through a contractual agreement with a nonpublic school for special education when Uplift Education is unable to provide FAPE for the student. A student is placed in a nonpublic day school through the ARD committee process in accordance with federal and state laws, rules, and regulations, including the provisions specified in 19 Texas Administrative Code 89.1094.
9. Vocational adjustment class: The vocational adjustment class is a support program for providing special education and related services to a student who is placed on a job (paid or unpaid unless otherwise prohibited by law) with regularly scheduled direct involvement by special education personnel in the implementation of the student's IEP, as documented through transition planning in the student's IEP and may include special education services provided in career and technical education work-based learning programs. Periodic consultation with employers in a work-based learning program does not constitute eligibility for this instructional setting.
10. Residential care and treatment facility (not Uplift Education jurisdiction): The residential care and treatment facility (not Uplift Education jurisdiction) is for providing special education and related services to students who reside in care and treatment facilities, who were not placed at the facility by the student's ARD Committee, and whose parents do not reside within the jurisdiction of Uplift Education. In order to be considered in this arrangement, the services must be provided on an Uplift Education campus. If the instruction is provided at the facility, rather than on a school campus, the instructional arrangement is considered to be the hospital class setting rather than this instructional arrangement, or if the student resides at a state-supported living center, the instructional arrangement will be considered the state school arrangement/setting.
11. State supported living center: The state-supported living center instructional arrangement/setting is for providing special education and related services to a student who resides at a state supported living center when the services are provided at the state supported living center location. If services are provided on a Uplift Education campus, the student's instructional setting would be a residential care and treatment facility.
12. Other program options that may be considered for the delivery of special education and related services to a student include contracts with other districts and programs approved by TEA.

19 TAC 89.1005(c) and (f).

EXTENDED SCHOOL YEAR SERVICES

Extended school year (ESY) services are defined as individualized instructional programs beyond the regular school year for eligible students with disabilities. Uplift Education shall ensure that ESY services are available as necessary to provide a student with a disability with FAPE.

ESY services must be provided only if the student's ARD Committee determines, on an individual basis, that the services are necessary for FAPE. Uplift Education does not limit ESY services to particular categories of disability or unilaterally limit the type, amount, or duration of ESY services.

SERVICE ANIMALS

A parent/adult student requesting the use of a service animal must make a written request through the campus administrator, who will direct the request to the Senior Director of Special Populations or Director of Special Education. The school has established procedures for evaluating a request to bring a service animal on school property a case-by-case basis.

Use of Service Animal Standards:

1. The animal must be a dog or, in specific circumstances, a miniature horse. No other species of animal, whether wild or domestic, will be permitted in schools as a “service animal.”
2. The service dog must be an “individually trained service dog”. The work or tasks performed by a service dog must be directly related to the handler’s disability. The service dog must be trained by a certified service animal program and authorization of training must be presented to the school.
3. The service dog must have a health certificate that evidences the dog is currently in good health, free from parasites. Owners of a service dog must provide “annual” proof of the following vaccinations: DHLPPC (Distemper, Hepatitis, Leptospirosis, Parainfluenza, Parvovirus, Coronavirus), Bordetella, and Rabies.
4. Owners of a service miniature horse must provide “annual” proof of the following vaccinations: Equine Infectious Anemia (Coggins Test), Rabies, Tetanus, Encephelomyelitis, Rhinoneumonitis, Influenza, and Strangles.
5. Guide dogs for totally or partially blind persons and hearing dogs for deaf or hearing impaired or otherwise disabled persons must wear a harness, backpack, or vest identifying the dog as a trained service dog.
6. The service animal shall be under the control of its handler. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal’s safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler’s control (e.g., voice control, signals, or other effective means).
7. Special Provisions/Miniature Horses: Requests to permit a miniature horse to accompany a student or adult with a disability in school buildings, in classroom, or at school functions, will be handled on a case-by-case basis, considering:
 - The type, size, and weight of the miniature horse and whether the facility and accommodate these features.
 - Whether the handler has sufficient control of the miniature horse.
 - Whether the miniature horse is housebroken.
 - Whether the miniature horse’s presence in a specific facility compromises legitimate safety requirements that are necessary for safe operations.

8. A service animal will be denied access to school property if at any time “Minimum Standards for Assistance Animals in Public” are not maintained:

- Animal is clean, well-groomed and does not have an offensive odor
- Animal does not urinate or defecate in inappropriate locations. Animal must be housebroken.
- Animal does not solicit attention, visit or annoy any member of the student body or school personnel.
- Animal does not vocalize unnecessarily (i.e. barking, growling or whining).
- Animal does not solicit aggression towards people or other animals.
- Animal does not solicit or steal food or other items from the student body or school personnel
- Animal is out of control and the animal’s handler does not take effective action to control it.

9. The service animal must not in any other way interfere with the educational process of any student.

10. The service animal must not pose a health or safety threat to any student, personnel or other persons.

11. The owner of a service animal is liable for any harm or injury caused by the animal to other students, staff, visitors, and/or property.

12. The school district is not responsible for the care or supervision of a service animal, including walking the animal or responding to the animal’s need to relieve itself.

13. The school district is not responsible for providing a staff member to walk the service animal or to provide any other care or assistance to the animal.

- Students with service animals are expected to care and supervise their animal. In the case of a student with a disability who is unable to care for or supervise his/her service animal, the parent is responsible for providing care and supervision of the animal.
- Issues related to the care and supervision of service animals will be addressed on a case-by-case basis by the building administrator.
- The campus administrator will be the individual responsible for determining if the service animal meets Uplift Education standards.

14. Appealing a denial of a request for the use of a service animal must be directed to the campus administrator, who will direct the appeal to the appropriate district personnel.

Non-Service Animals/Support Animals

A parent/student requesting the use of a non-service/support animal will be considered on a case-by-case basis following a written request submitted to the Director of Special Education. If a support animal is approved for use in the school, the animal must meet all criteria outlined for a “service animal” including vaccinations, training, etc.

SECTION 2: CHILD FIND

CHILD FIND

Uplift Education shall ensure that all children residing within Uplift Education's boundaries who have disabilities, regardless of the severity of their disabilities, and who are in need of special education and related services are identified, located, and evaluated. For the purposes of this policy, "Uplift Education boundaries" is interpreted to mean all students enrolled in and served by Uplift Education schools. As such, this policy applies to all Uplift Education students unless and until relevant changes in state or federal law dictate a different interpretation. This responsibility applies to all children with disabilities, including:

- a) Homeless children;
- b) Children who are wards of the state;
- c) Children attending private schools;
- d) Highly mobile children (including migrant children); and
- e) Children who are suspected of being in need of special education but who are advancing from grade to grade.

20 U.S.C. 1412(a)(3)(A); 34 CFR 300.111(a)(1)(i), (c).

Eligible students are served by Uplift Education with the assistance of the Texas Education Agency, the Region 10 Education Service Center and the Early Childhood Intervention program.

DISSEMINATION OF INFORMATION

Dissemination of information to the public concerning services offered to all individuals with disabilities includes:

- a) Participating in a network of public information dissemination which includes the Education Service Center, other agencies, communities, and facilities providing services to students with disabilities;
- b) Providing information regarding availability of services;
- c) Determining which individuals are currently receiving needed Special Education and related services and which individuals are not currently receiving needed Special Education and related services;
- d) Identifying and referring individuals with disabilities who may or may not be in school and who may need Special Education and related services;
- e) Referring individuals ages 0-3 to a local Early Childhood Intervention (ECI) program for evaluation;
- f) Reviewing this process on a yearly basis, updating staff about on-going "Child Find" activities implemented in the community; and
- g) Maintaining confidentiality of all personally identifiable information used and collected in this system in the same manner that Special Education records are maintained.

PRE-REFERRAL SUPPORT SERVICES

Before referring a student for possible special education services, the student should be considered for all support services available to all students such as tutorial, remedial, compensatory, response to evidence-based

intervention; and other academic or behavior support services.

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

19 TAC 89.1011(a); Tex. Educ. Code § 26.004(a).

RIGHT TO INFORMATION FOR STUDENTS WITH LEARNING DIFFICULTIES

Each school year, Uplift Education shall provide in the student handbook or by another means the Texas Education Agency's written explanation of the options and requirements for providing assistance to student who have learning difficulties or who need or may need special education. The explanation will state that a parent is entitled at any time to request an evaluation of the parent's child for special education services or for aids, accommodations, or services under Section 504.

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

- A reasonable description of the assistance the student may receive, include any intervention strategies that may be used;
- Information collected regarding any intervention in the base tier of a multi-tiered system of supports that has previously been used with the child;
- An estimated duration for which the assistance, including through the use of intervention strategies, will be provided;
- The estimated time frame for when the parent will receive reports on the student's progress; and
- A copy of the Texas Education Agency's explanation of the options and requirements for providing assistance to students who have learning difficulties or who need or may need special education (TEA's "Aiding Students Who Have Learning Difficulties or Who Need Special Education or Section 504 Services").

Tex. Educ. Code § 26.0081(c), (d).

OVERIDENTIFICATION & DISPROPORTIONATE REPRESENTATION

Uplift Education must comply with all state policies and procedures designed to prevent the inappropriate overidentification or disproportionate representation by race and ethnicity of children as children with disabilities, including children with disabilities with a particular impairment.

34 CFR 300.173.

SECTION 3: ADULT STUDENT

AGE OF MAJORITY – TRANSFER OF RIGHTS

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. All rights accorded to parents under Chapter 29, Subchapter A of the Education Code or 20 U.S.C. 1415 transfer to the student.

Not later than one year before the 18th birthday of a student with a disability, Uplift Education shall:

1. Provide to the student and the student's parents:
 - a. Written notice regarding the transfer of rights; and
 - b. Information and resources regarding guardianship, alternatives to guardianship, including a supported decision-making agreement under Estates Code, Chapter 1357, and other supports and services that may enable the student to live independently; and
2. Ensure that the student's individualized education program ("IEP") includes a statement that Uplift Education provided the required notice, information, and resources.

When a student reaches the age of majority (18 years of age), except for a student who has been determined to be incompetent under state law, all rights under IDEA transfer from the parent to the adult student, except that Uplift Education must provide any notice required under IDEA to both the adult student and the parent. At the time the student reaches 18, Uplift Education shall provide written notice to the student and the student's parents that the adult student has the same right to make educational decisions as a child without a disability; and all rights granted to the parent under IDEA have transferred to the adult student, unless the parent or other individual has been granted a guardianship of the adult student under Texas Estates Code, Title 3. The notice must include the information required above. This notice is separate and distinct from the requirement that, beginning at least one year before the student reaches the age of 18, the student's IEP must include a statement regarding transfer of parental rights.

If a student with a disability or the student's parent requests information regarding guardianship or alternatives to guardianship, Uplift Education shall provide the student or parent information and resources on supported decision-making agreements under Estates Code, Chapter 1357.

Following a transfer of rights, Uplift Education must provide any notice required by IDEA to both the adult student and the parent. However, a notice of an ARD Committee meeting does not constitute an invitation to, or create a right for, the parent to attend the meeting; and prior written notice given to an adult student and parent does not create a right for the parent to consent or participate in the proposal or refusal to which the notice relates. The adult student or Uplift Education may invite individuals who have knowledge or special expertise regarding the adult student, including the parent, to be a member of the ARD committee.

34 CFR 300.520; Tex. Educ. Code §§ 29.017(a), (c), (c-1), (c-2); 19 TAC 89.1049(c), (d).

SECTION 4: AGES 0-5

PROVISION OF FAPE TO AGES 0-5

Uplift Education must ensure that a free appropriate public education (“FAPE”) in the least restrictive environment is available to all eligible children with disabilities ages 3 to 21. Services will be made available to eligible students on their third birthday.

Uplift Education will ensure that FAPE is made available from birth to children with visual impairments, or who are deaf or hard of hearing.

34 C.F.R. 300.101(a); 19 TAC 89.1035(a), (b); Tex. Educ. Code § 29.003(b).

Uplift Education shall develop a system to notify residents within Uplift Education’s boundaries with children who are at least three but younger than six and who are eligible for enrollment in a special education program of the availability of such programs.

Tex. Educ. Code § 29.009.

For a student from birth through two years of age with a visual impairment or who is deaf or hard of hearing, an Individualized Family Service Plan (IFPS) meeting must be held in place of an ARD committee meeting in accordance with 34 CFR 300.320-300.324, and the memorandum of understanding between the Texas Education Agency and the Texas Health and Human Services Commission. For students three years of age and older, Uplift Education must develop an Individualized Education Program (IEP).

19 TAC 89.1050(b).

DISABILITY ELIGIBILITY CATEGORIES FOR AGES 3-5

In addition to the other eligibility categories under the IDEA, students between the ages of 3 through 5 may qualify for special education services as having a noncategorical early childhood disability. “Noncategorical early childhood” may apply to a student between the ages of 3 to 5 that is evaluated as having an intellectual disability, and emotional disturbance, a specific learning disability, or autism. The eligibility category of noncategorical must no longer be used by Uplift Education beginning with the 2025-2026 school year. Any eligible student who begins the 2025-2026 school year already identified as noncategorical may maintain this eligibility category, if determined appropriate by the student’s ARD Committee, until the required re-evaluation before the age of 6.

19 TAC 89.1040(c)(14), (d)(3).

Developmental Delay applies to a student between the ages of 3 through 9 years of age who is evaluated by a multidisciplinary team for at least one disability category under the IDEA and whose evaluation data indicates a need for special education and related services and shows evidence of, but does not clearly confirm, the presence of the suspected disability(ies) due to the child’s young age. The ARD Committee may determine that data supports identification of developmental delay in one or more of the following areas: physical development,

cognitive development, communication development, social or emotional development, or adaptive development. Uplift Education is not required to use the eligibility category of developmental delay. However, if Uplift Education chooses to use this eligibility category, it must use the definition and criteria describe in 19 TAC 89.1040(c)(13).

19 TAC 89.1040(c)(13), (d).

INDIVIDUAL FAMILY SERVICES PLAN (“IFSP”) FOR VI, DHH, AND DB STUDENTS

An IFSP should be held in place of an ARD Committee meeting for students from birth through two years of age with a visual impairment, a student who is deaf or hard of hearing, and/or a student who is deafblind. The IFSP team must determine the appropriate setting for providing the services based on the student’s outcomes that are identified by the IFSP team at the IFSP meeting. Home instruction may be appropriate for students ages 0 through 2. The appropriate instructional setting for students ages 0 through 2 will be determined in accordance with the IFSP, current attendance guidelines, and the MOU between TEA and Early Childhood Intervention (ECI) services.

The IFSP must include:

- The student’s present levels of physical development—including vision, hearing, health status, cognitive development, communication development, social or emotional development, and adaptive development based on the information from the student’s evaluation and assessments;
- A statement about the family’s resources, priorities, and concerns relating to the student’s development;
- Expected measurable results or measurable outcomes that are developmentally appropriate for the student and the family, as well as the criteria, procedures, and timelines used to determine progress and whether modifications or revisions to the expected results or outcomes, or early intervention services, are necessary;
- Any specific early intervention services needed to meet the unique needs of the student or family, including the length, duration, frequency, intensity, and method of delivering the services;
- A statement that the early intervention services are provided in the student’s natural environment to the maximum extent possible, the location of the early intervention services and payment arrangements, if any, or an explanation as to why they cannot be;
- An educational component promoting school readiness that includes pre-literacy, language, and numeracy skills (for those students ages 3 through 5 only);
- The date services will begin;
- The anticipated duration of each service; and
- The name of the service coordinator responsible for implementing the services;
- Steps and services that will be taken to encourage a smooth transition from IDEAC services to IDEA-B services, if appropriate, or other appropriate services.

Where appropriate, the IFSP should also include:

- Any medical and other services that the student or family needs and is receiving through other sources not required or funded under Part C of IDEA; and

- Any steps that the service coordinator or family can take to help the student and family obtain such services if not currently provided.

19 TAC 89.1050, 89.1005; 34 CFR 300.24, 303.20, 303.209, 303.321, 303.344

TRANSITION FROM ECI TO PRESCHOOL PROGRAMS

The state will have in effect policies and procedures to ensure that children participating in Early Childhood Intervention programs assisted under IDEA Part C, and who will participate in preschool programs assisted under IDEA Part B, experience a smooth and effective transition to those preschool programs.

34 CFR 300.124(a).

Unless the student with a disability's parent has notified the Health and Human Services Commission ("HHSC") in writing of the decision to opt out, the HHSC will notify Uplift Education not fewer than 90 days before the student's third birthday that the student will soon reach the age of eligibility under Part B of the IDEA. If a student is determined to be eligible for services under Part C of the IDEA more than 45, but less than 90, days before the student's third birthday, HHSC will notify Uplift Education as soon as practicable. If a student is referred for special education services under Part C of the IDEA fewer than 45 days before the student's third birthday, HHSC will obtain parental consent to refer the student to Uplift Education but is not required to conduct an evaluation, assessment, or initial IFSP meeting.

34 CFR 303.209.

Notification from HHSC will abide by state policies related to confidentiality of personally identifiable information—including the ability of a parent to object to disclosure of personally identifiable information—and early intervention records. Unless a parent objects to the HHSC notification, the notification must include the student's name and date of birth, as well as contact information for the parents.

34 CFR 303.209; 303.401(d).

Upon approval of the family, HHSC will convene a transition conference with the family not fewer than 90 days but not more than nine (9) months before the student's third birthday to discuss whether the student will receive services under Part B of the IDEA. The transition conference may be combined with initial and annual IFSP meetings where appropriate. Uplift Education will participate in transition conferences arranged by HHSC to fully inform families of the possible services available under Part B and support family involvement in the transition planning process prior to the child's third birthday.

34 CFR 303.209, 300.124(c), 303.342, 303.343

In the case of a student who was previously served under Part C services, District Special Education Personnel will send an invitation to the initial ARD Committee meeting at the request of the parent to the student's service coordinator of Part C services or other appropriate representatives to assist with a smooth transition.

34 CFR 300.321(f).

INDIVIDUALIZED EDUCATION PROGRAM (“IEP”) FOR AGES 3-5

Uplift Education will ensure that an IEP is in effect for eligible children with disabilities no later than the child’s third birthday. The ARD Committee meeting and the IEP developed at the ARD Committee meeting must meet all requirements under state and federal law.

The IEP must provide special education and related services in the student’s least restrictive environment. The ARD Committee may agree to provide home instruction for students ages 3 through 5 if it is determined to be the student’s least restrictive environment. The student’s ARD Committee must determine the date services will begin for a student turning three (3) years old during the summer.

34 CFR 300.101; 19 TAC 89.1035, 89.1005.

DUAL ENROLLMENT

A student ages 3 or 4 may be dually enrolled in both public and private school beginning on the student’s third birthday until the end of the school year in which the student turns five or until the student is eligible to attend Uplift Education’s kindergarten program, whichever comes first. If the parent of a student chooses dual enrollment, Uplift Education must provide special education and related services to the student.

19 TAC 89.1096.

SECTION 5: CHILDREN WHO TRANSFER

FAPE FOR STUDENTS WHO TRANSFER

Uplift Education will ensure that students with disabilities transferring to and from another LEA (public school district, public charter school, or other public school system) located within Texas or outside of Texas continue to receive a free appropriate public education (FAPE) at all times.

34 CFR 300.323(e), (f), (g).

TRANSMITTAL OF RECORDS

When a student with a disability enrolls or registers in Uplift Education, Uplift Education will take reasonable steps to promptly obtain the student's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the student from the previous LEA in which the student was enrolled. The previous LEA in which the student was enrolled must take reasonable steps to promptly respond to the request from Uplift Education, which is defined in Texas law as not later than the tenth working day after the date the request is received. Uplift Education is not required to obtain parental consent before requesting the transfer student's records.

When a student with a disability transfers from Uplift Education to another LEA, Uplift Education will take reasonable steps to promptly respond to a request from the student's new LEA for the student's education records, including the IEP and supporting documents and any other records related to the provision of special education or related services to the student from Uplift Education. Uplift Education shall provide these records within ten (10) working dates after Uplift Education receives the request. Uplift Education is not required to obtain parental consent before providing the student's records to the new LEA if the records are requested for purposes related to the student's enrollment in the new LEA.

34 CFR 300.323(g); 34 CFR 99.31(a)(2); 19 TAC 89.1055(s)(4); Tex. Educ. Code § 25.002.

VERIFICATION OF IEP

For the purposes of the procedures related to transfer students, "verify" or "verification of an IEP" means that Uplift Education has received a copy of the student's IEP that was in effect in the previous LEA.

If a parent hasn't already provided verification of eligibility and Uplift Education has been unable to obtain the necessary verification records from the previous LEA by the 15th working day after the date a request for the records was submitted to the prior LEA, Uplift Education must seek verification from the student's parent. If the parent is unwilling or unable to provide such verification, Uplift Education will continue to take reasonable steps to obtain the student's records from the previous LEA.

19 TAC 89.1055(s)(5), (6).

STUDENTS WHO TRANSFER WITH AN IEP WITHIN THE STATE OF TEXAS

If a student with a disability transfers to Uplift Education from another LEA within Texas during the same school year, and the parents or previous LEA verifies that the student had an IEP that was in effect in the previous LEA, Uplift Education must either:

- (1) adopt the student's IEP from the previous LEA; or
- (2) develop, adopt, and implement a new IEP.

The timeline for adopting the previous IEP or developing, adopting, and implementing a new IEP is 20 school days from the date the student is verified as being a student eligible for special education services. The first school day after Uplift Education receives a copy of the student's IEP begins the 20-school day timeline.

If the student from another LEA in Texas registers with Uplift Education during the summer when students are not in attendance for instructional purposes, the student is still considered a transfer student and the procedures and timelines explained above will apply.

34 CFR 300.323(e); 19 TAC 89.1055(s)(1), (3).

STUDENTS WHO TRANSFER WITH AN IEP FROM OUTSIDE TEXAS

If a student with a disability transfers to Uplift Education from another LEA outside of Texas during the same school year, and the parents or previous LEA verifies that the student had an IEP that was in effect in the previous LEA, Uplift Education must:

- (1) if determined necessary, conduct a full individual and initial evaluation (FIIE) and make an eligibility determination and, if appropriate, develop, adopt, and implement a new IEP; or
- (2) if an evaluation is not necessary and eligibility has been verified, develop, adopt, and implement a new IEP.

If it is determined by Uplift Education that an evaluation is necessary, Uplift Education must conduct the FIIE and make an eligibility determination and, if appropriate, develop, adopt and implement a new IEP within the timeline established by 19 TAC 89.1011 for a FIIE. In accordance with 19 TAC 89.1011, the FIIE must be completed, with some exceptions, 45 school days from receipt of written consent and the ARD Committee meeting must make its decisions regarding a student's eligibility and, if appropriate, develop and adopt a new IEP within 30 calendar days from the date of the completion of the written FIIE report.

If it is determined by Uplift Education that an evaluation is not necessary, the timeline to develop, adopt, and implement a new IEP is 20 school days from the date the student is verified as being a student eligible for special education services. The first school day after Uplift Education receives a copy of the student's IEP begins the 20-school day timeline.

If the student from another LEA outside of Texas registers with Uplift Education during the summer when students are not in attendance for instructional purposes, the student is still considered a transfer student and the procedures and timelines explained above will apply.

34 CFR 300.323(f); 19 TAC 89.1055(s)(2), (3).

COMPARABLE SERVICES

While Uplift Education waits for verification that the student had an IEP in effect at the prior LEA, Uplift Education must take reasonable steps to provide, in consultation with the student's parents, services comparable to those the student received from the previous LEA if Uplift Education has been informed by the previous LEA of the student's special education and related services and placement.

Once Uplift Education receives verification that the student has an IEP in effect at the previous LEA (i.e. has a copy of the current IEP in effect in the prior LEA), comparable services must be provided to the student during the timeline described above. For students who transfer during the summer or if the timeline for adoption or development of the IEP extends to the next school year, comparable services must include the provision of ESY services if those services are identified in the previous IEP or if Uplift Education has reason to believe that the student would be eligible for ESY services.

34 CFR 300.323(e), (f); 19 TAC 89.1066(s)(1), (2), (3), (7), (8).

PENDING INITIAL EVALUATIONS FROM PRIOR LEA

To ensure that initial evaluations of students who transfer from another LEA are completed in a timely manner, Uplift Education will coordinate with the previous LEA, as necessary and as expeditiously as possible to ensure a prompt completion of the evaluation. Uplift Education is responsible for completing an evaluation that the previous LEA was in the process of completing at the time the student enrolled in Uplift Education, and must comply with all consent and evaluation procedures, including relevant timelines. However, the 45-school day timeline required by the IDEA for completing an initial evaluation will not apply if Uplift Education is making sufficient progress to ensure the evaluation is completed in a timely manner and the parent and Uplift Education agree to a specific timeframe for completion of the evaluation.

34 CFR 300.304(c)(5); 300.301(d)(2), (e); 19 TAC 89.1011(f).

SECTION 6: PARENT

PARENT

The parent plays an active role in making educational decisions related to the student's special education program and must be ensured the opportunity for meaningful participation.

For the purpose of special education decision-making, a parent includes:

- A biological or adoptive parent;
- A foster parent of the student who meets the requirements for a foster parent to act as a parent;
- A guardian, but not the state itself, if the student is a ward of the state;
- An individual acting in the place of a biological or adoptive parent, including a grandparent, stepparent, or other relative, with whom the student lives, or another individual who is legally responsible for the student's welfare; or
- An individual assigned to be a surrogate parent.

The Department of Family and Protective Services ("DFPS") itself is not considered the parent.

34 CFR 300.30(a).

FOSTER PARENT

A foster parent may act as a parent of a child with a disability, as authorized under 20 U.S.C. 1415(b) and its subsequent amendments, if:

- the Department of Family and Protective Services ("DFPS") is appointed as the temporary or permanent managing conservator of the child;
- the rights and duties of the DFPS to make decisions regarding education provided to the child have not been limited by court order; and
- the foster parent agrees to:
 - participate in making special education decisions on the child's behalf; and
 - complete a training program that complies with minimum standards established by the Texas Education Agency ("TEA") rule.

Tex. Educ. Code § 29.015(a); 19 TAC 89.1047(a).

A foster parent who will act as a parent of a child with a disability must complete a training program before the next scheduled admission, review, and dismissal ("ARD") committee meeting for the child but not later than the 90th day after the date the foster parent begins acting as the parent for the purpose of making special education decisions.

Tex. Educ. Code § 29.015(b).

Uplift Education may not require a foster parent to retake a training program or require additional training to

continue serving as a child's parent or to serve as the surrogate parent for another child if the foster parent has completed a training program to act as a parent of a child with a disability provided by:

1. the DFPS;
2. a school district;
3. an education service center; or
4. any other entity that receives federal funds to provide special education training to parents.

Not later than the 5th day after the date the child with a disability is enrolled, the DFPS must inform Uplift Education if the child's foster parent is unwilling or unable to serve as a parent.

Tex. Educ. Code § 29.015(d).

In addition, Uplift Education may deny a foster parent the right to serve as a parent, but written notice of such refusal must be provided to the foster parent within 7 calendar days after the decision is made and must specifically explain why the foster parent is being denied and inform the foster parent of the right to file a complaint with the TEA in accordance with federal law and regulations.

Tex. Educ. Code § 29.015(c).

Uplift Education shall provide notice to the student's educational decision-maker and caseworker regarding events that may significantly impact the education of a student, including:

1. requests or referrals for an evaluation under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), or special education under Education Code Section 29.003;
2. ARD committee meetings;
3. manifestation determination reviews required by Education Code Section 37.004(b);
4. any disciplinary actions under Chapter 37 of the Education Code for which parental notice is required;
5. citations issued for Class C misdemeanor offenses on school property or at school-sponsored activities;
6. reports of restraint and seclusion required by Education Code Section 37.0021; and
7. use of corporal punishment as provided by Education Code Section 37.0011.

Tex. Educ. Code § 25.007.

As a condition to receiving funds under Title I, Part A, Uplift Education shall collaborate with the state or local child welfare agency to:

- a. ensure that children in foster care needing transportation to the school of origin will promptly receive transportation in a cost-effective manner and in accordance with 42 U.S.C. 675(4)(A) and to the extent required by law; and
- b. ensure that, if there are additional costs incurred in providing transportation to maintain children in foster care in their schools of origin, Uplift Education will, to the extent required by law, provide transportation to the school of origin if:

- i. the local child welfare agency agrees to reimburse Uplift Education for the cost of transportation;
- ii. Uplift Education agrees to pay the cost of transportation; or
- iii. Uplift Education and the local welfare agency agree to share the cost of such transportation.

20 U.S.C. 6312(c)(5).

SURROGATE PARENT

A surrogate parent is a person who is legally entitled to take the place of a parent under certain circumstances to make educational decisions for a student with a disability. The appointment of a surrogate parent applies to students with disabilities for whom the DFPS is appointed as the temporary or permanent managing conservator of the student and the rights and duties of the DFPS to make educational decisions for the student have not been limited by court order. In some situations, a judge will appoint a surrogate parent. However, Uplift Education must make reasonable efforts to appoint a surrogate parent not more than 30 days after Uplift Education determines that the student needs a surrogate parent if the judge has not appointed a surrogate.

Tex. Educ. Code § 29.0151(a); 34 CFR 300.519(h); Tex. Family Code § 263.0025.

Uplift Education must assign a surrogate parent for a student with a disability when:

1. a parent for student cannot be identified;
2. a parent for the student cannot be located, after reasonable efforts;
3. the foster parent of the student is unwilling or unable to serve as a parent;
4. the student does not reside in a foster home setting;
5. the student is a ward of the state; or
6. the student is an unaccompanied homeless youth.

Tex. Educ. Code § 29.0151; 19 TAC 89.1047(c); 34 CFR 300.519.

A surrogate parent appointed by Uplift Education may not be an employee of the state, Uplift Education, or any other agency involved in the education or care of the child; or have any interest that conflicts with the interests of the child. *19 TAC 89.1047; 34 CFR 300.519; Tex. Educ. Code § 29.0151.*

Uplift Education must ensure that the surrogate parent it appoints:

1. is willing to serve in that capacity;
2. exercises independent judgement in pursuing the child's interests;
3. ensures that the child's due process rights under applicable state and federal laws are not violated;
4. completes a training program that complies with minimum standards established by agency rule before the next scheduled admission, review, and dismissal committee meeting for the child but not later than the 90th day after the date the surrogate parent is appointed;
5. visits the child and the school where the child is enrolled;
6. reviews the child's educational records;
7. consults with any person involved in the child's education, including the child's teachers, caseworkers, court-appointed volunteers, guardian ad litem, attorney ad litem, foster parent, and caregiver; and

8. attends meetings of the child's admission, review, and dismissal committee.

Tex. Educ. Code §§ 29.0151(d), 29.001(10).

Uplift Education may appoint a person who has been appointed to serve as a child's guardian ad litem or as a court-certified volunteer advocate as the child's surrogate parent. As soon as practicable after appointing a surrogate parent Uplift Education shall provide written notice of the appointment to the child's educational decision-maker and caseworker.

Tex. Educ. Code § 29.1051(e).

If a court appoints a surrogate parent for a child with a disability and the Uplift Education determines that the surrogate parent is failing to perform or is not properly performing the duties listed in this policy, Uplift Education shall consult with the DFPS regarding whether another person should be appointed to serve as the surrogate parent for the child.

19 TAC 89.1047(e); Tex. Educ. Code § 29.0151(f); Tex. Family Code § 263.0025.

Uplift Education Special Populations shall maintain a list of trained and approved surrogate parents.

TRAINING PROGRAMS FOR FOSTER AND SURROGATE PARENTS

All individuals seeking to become a foster or surrogate parent must participate in a mandatory training that outlines federal and state laws, rules, and regulations related to special education before the foster parent can act as the parent or before Uplift Education can appoint the individual to be a surrogate parent for the purpose of making educational decisions on behalf of the student. Specifically, this training must explain:

- the identification of the student with a disability;
- the evaluation and reevaluation process;
- the ARD Committee process;
- the process for developing and implementing an IEP, as well as transition services for a student ages 14 or older;
- the determination of least restrictive environment;
- the *Notice of Procedural Safeguards*;
- the sources for the surrogate parent to contact to obtain assistance in understanding the provisions of federal and state laws, rules, and regulations related to special education; and
- the duties and responsibilities of surrogate parents under state law.

The training must be provided in the potential surrogate or foster parent's native language, or other mode of communication used by the individual, where practicable. The training may be conducted or provided by the DFPS, Uplift Education personnel, an education service center, or any other entity receiving federal funding to provide special education training to parents.

19 TAC 89.1047; Tex. Educ. Code § 29.0151.

SECTION 7: DYSLEXIA

DYSLEXIA AND RELATED DISORDERS

“Dyslexia” means a disorder of constitutional origin manifested by a difficulty in learning to read, write, or spell, despite conventional instruction, adequate intelligence, and sociocultural opportunity. “Related disorders” includes disorders similar to or related to dyslexia, such as developmental auditory imperceptions, dysphasia, specific developmental dyslexia, developmental dysgraphia, and developmental spelling disability. Dyslexia is an example of and meets the definition of a specific learning disability (SLD) under the Individuals with Disabilities Education Act (IDEA).

Tex. Educ. Code §§ 38.003(d)(1), (d)(2); 29.0031(a).

The Board shall ensure that procedures for identifying a student with dyslexia or a related disorder and for providing appropriate, evidence-based instructional services to students for dyslexia and related disorders are implemented by each and every Uplift Education campus. Evidence-based dyslexia programs are considered specially designed instruction (i.e. special education services) under the IDEA. These procedures shall be implemented in accordance with the most recently updated version of the State Board of Education’s *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders* and its subsequent amendments (Dyslexia Handbook). Uplift Education shall further ensure Uplift Education complies with all rules and standards adopted by the State Board of Education to implement the dyslexia program, including the Dyslexia Handbook and guidance published by the commissioner to assist Uplift Education in implementing the program.

Tex. Educ. Code § 38.003(b).

UNIVERSAL DYSLEXIA SCREENING AND IDENTIFICATION

Students enrolled in Uplift Education shall be screened, as appropriate, for dyslexia and related disorders at appropriate times in accordance with the Dyslexia Handbook and state law. Specifically, the law requires that all kindergarten and first grade students be screened for dyslexia and related disorders. Kindergarten students must be screened at the end of the school year. Students in first grade must be screened as close to the middle of the year as possible, but no later than January 31 of each year. In addition, the law requires Uplift Education to administer to students in kindergarten, first grade, and second grade a reading instrument to assess student reading development and comprehension. This law also requires Uplift Education to administer a reading instrument at the beginning of seventh grade to students who did not demonstrate reading proficiency on the sixth-grade state reading STAAR.

Tex. Educ. Code §§ 38.003, 28.006.

A process for early identification, intervention, and support for students at risk for dyslexia and related disorders must be available, as outlined in the *Dyslexia Handbook*. Uplift Education may not use early intervention strategies, including multi-tiered systems of support, to delay or deny the provision of a full and individual evaluation to a child suspected of having a specific learning disability, including dyslexia or a related disorder. Screening, as described in the *Dyslexia Handbook*, and further evaluation should only be conducted by individuals who are trained in valid, evidence-based assessments and who are trained to appropriately evaluate students for

dyslexia and related services.

Unless otherwise provided by law, a student determined to have dyslexia during testing or accommodated because of dyslexia may not be retested for dyslexia for the purpose of reassessing the student's need for accommodations until Uplift Education reevaluates the information obtained from previous testing of the student.

19 TAC 74.28(d), (j).

PARENT INFORMATION REGARDING DYSPLEXIA

Uplift Education shall provide to parents of students enrolled information on:

1. Characteristics of dyslexia and related disorders;
2. Evaluation and identification of dyslexia and related disorders;
3. Effective instructional strategies for teaching students with dyslexia and related disorders;
4. Qualification of and contact information for providers of dyslexia instruction at each campus or school;
5. Instructional accommodations and modifications;
6. The steps in the special education process, as described in the form developed by the Texas Education Agency to comply with Education Code 29.0031(a)(1) (the Overview of Special Education for Parents form); and
7. How to request a copy and access the electronic version of the Dyslexia Handbook.

19 TAC 74.28

Parents and guardians of students with dyslexia or a related disorder must be informed of all services and options available to the student, including general education interventions under response to intervention and multi-tiered systems of support modules as required by Section 26.0081 of the Education Code.

Uplift Education shall notify the parent or guardian of each student determined, on the basis of a dyslexia or related disorder screening or other basis, to have dyslexia or a related disorder, or determined, on the basis of reading instrument results, to be at risk for dyslexia or other reading difficulties of the program maintained by the Texas State Library and Archives Commission providing students with reading disabilities the ability to borrow audiobooks free of charge. The notification shall be done in accordance with the program developed by the Commissioner.

Tex. Educ. Code § 28.006(g-2).

REFERRAL FOR EVALUATION

If Uplift Education suspects or has a reason to suspect that a student may have dyslexia, including after a dyslexia screener or other reading assessment required under Texas Education Code Sections 28.006 or 38.003, and that the student may require specially designed instruction (including an evidence-based dyslexia program), Uplift Education must:

1. Provide to the student's parent or a person standing in parental relation to the student a form developed by the Texas Education Agency explaining the rights available under the IDEA that may be additional to

the rights available under Section 504 of the Rehabilitation Act of 1973 (the Overview of Special Education for Parents form);

2. Comply with all federal and state requirements, including the Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders, as adopted by the State Board of Education (SBOE), and its subsequent amendments, regarding any evaluation of the student; and
3. If the student is evaluated for dyslexia or a related disorder, also evaluate the student in any other areas in which the district suspects the student may have a disability.

Tex. Educ. Code § 29.0031(a).

Before a full individual and initial evaluation is conducted to determine whether a student has a disability under the IDEA, a district must notify the student's parent or guardian or another person standing in parental relation to the student of its proposal to conduct an evaluation consistent with 34 C.F.R. 300.503, provide all the information required in the above notice, and provide an opportunity for written consent for the evaluation. The district must also provide a copy of the IDEA procedural safeguards notice required under 34 C.F.R. 300.504.

Uplift Education will also ensure that every student with a disability who is enrolled in an Uplift Education school who needs Section 504 accommodations due to dyslexia or related disorder is located, identified, and evaluated. When a student is suspected of having dyslexia or a related disorder and is found ineligible under the IDEA because the student is determined to not need dyslexia instruction (i.e. specially designed instruction) after an IDEA evaluation, Uplift Education shall refer the student to a Section 504 Committee. The Section 504 Committee will not conduct a section evaluation of the student under Section 504. Instead, the Section 504 Committee will use the IDEA evaluation and determine eligibility for Section 504 accommodations and services, as necessary.

IDEA EVALUATION TEAM AND ARD COMMITTEE MEMBERSHIP

The multidisciplinary evaluation team and any subsequent ARD committee convened to determine a student's eligibility for special education and related services as a child with dyslexia or a related disorder must include at least one member with specific knowledge regarding the reading process, dyslexia and related disorders, and dyslexia instruction. The member must:

- Hold a licensed dyslexia therapist (LDT) license under Chapter 403, Occupations Code;
- Hold the most advanced dyslexia-related certification issued by an association recognized by the State Board of Education, and identified in, or substantially similar to an association identified in, the program rules adopted under Sections 7.102 and 38.003; or
- If a person qualified under 1 or 2 above is not available, meet the applicable training requirements adopted by the State Board of Education pursuant to Sections 7.102 and 38.003 as described in the Dyslexia Handbook.

Uplift Education will prioritize the individuals who meet the credentials of (1) and (2) above when designating an individual to fill this role. To meet the credentials of the most advance dyslexia-related certification in (2) above, the individual mut have received certification or training from the following programs or providers: Academic Language Therapy Association, the International Dyslexia Association, the Orton Gillingham

Academy, Wilson Language Training, or have received training through an International Multisensory Structured Language Education Council (IMSLEC) accredited training center at the teaching or therapy level. Individuals who are currently enrolled and participating in a credentialing program that will result in becoming a LDT or obtaining the most advanced dyslexia-related certification would be considered as meeting the credentials for (1) and (2) above.

If a person qualified under (1) or (2) is not available, Uplift Education may identify another individual to serve in this role who, within one calendar year from the date of being designated as such member, must: register and complete the Texas Education Agency's Texas Dyslexia Academies; register and complete the TEA's Guidance for the Comprehensive Evaluation of a Specific Learning Disability training; document that the member has training in current research and evidence-based assessments that are used to identify the most common characteristics of dyslexia; and complete any updated requirements TEA makes for these trainings.

The member of a multidisciplinary evaluation team or subsequent ARD committee convened to determine a student's eligibility for special education and related services as described above must sign a document describing the member's participation in the evaluation and any resulting Individualized Education Program (IEP) developed for the student.

If the student is determined to require dyslexia instruction, the student meets eligibility for special education and related services under the IDEA because dyslexia instruction is considered specially designed instruction. The IEP for this student must be developed and implemented in accordance with state and federal law and the Dyslexia Handbook.

Tex. Educ. Code § 29.0031(b), (c); 19 TAC 74.28

DYSLEXIA SERVICES UNDER THE IDEA

Uplift Education shall provide each identified student access at his or her campus to instructional programs and to the services of a teacher trained in dyslexia and related services. Uplift Education may, with the approval of each student's parents or guardians, offer additional services at a centralized location, so long as such centralized services do not preclude each student from receiving services at his or her campus.

Uplift Education shall purchase a dyslexia program or develop its own dyslexia program for students with dyslexia and related disorders that is aligned with the descriptors found in the *Dyslexia Handbook*.

Providers of Dyslexia Instructor (PDI)

All Providers of Dyslexia Instruction (PDI) must be fully trained in Uplift Education's adopted instructional strategies that utilize individualized, intensive, multi-sensory, phonetic methods and a variety of writing and spelling components described in the *Dyslexia Handbook*. A PDI does not meet this requirement solely by completing a literacy achievement academy under Section 21.4552 of the Education Code.

A PDI does not have to hold a special education certificate or permit unless they are employed in a special education position that requires certification. If, however, the PDI is not a certified special education teacher, a certified special education teacher must be involved in the implementation of the student's IEP through the

provision of direct, indirect, and/or support services to the student.

Tex. Educ. Code § 29.0032.

Progress Report to Parents

At least once each grading period, or more often if provided for in a student's IEP, the school must provide the parent of a student receiving dyslexia instruction with information regarding the student's progress as a result of receiving that instruction.

Tex. Educ. Code § 29.0031(d).

TEA MONITORING

Uplift Education must report through the Public Education Information Management System to the Texas Education Agency the number of students enrolled who are identified as having dyslexia.

Uplift Education will be subject to monitoring for compliance with federal law and regulations regarding students with dyslexia and related disorders. In addition, Uplift Education will be subject to auditing and monitoring for compliance with state dyslexia laws in accordance with administrative rules adopted by the commissioner as required by Texas Education Code § 38.003(c-1).

SECTION 8: REFERRAL FOR POSSIBLE SPECIAL EDUCATION SERVICES

REQUESTS AND REFERRALS FOR FULL AND INDIVIDUAL INITIAL EVALUATION

Referral of students for a full and individual initial evaluation (FIIE) for possible special education services shall be a part of Uplift Education’s overall general education referral or screening system. Either a parent, the Texas Educational Agency (“TEA”), another state agency, or Uplift Education may initiate a request for an initial evaluation.

a) *Obligation to Refer*

Students not making progress in the general education classroom should be considered for all interventions and support services available to all students, such as tutorial; compensatory; response to evidence-based intervention; and other academic or behavior support services. Uplift Education cannot require a student to participate in interventions and support services for any specific length of time prior to a referral being made or an FIIE being conducted. If the student continues to experience difficulty in the general education classroom with the provision of interventions and support services or at any time Uplift Education personnel suspect a disability and a possible need for special education and related services, Uplift Education personnel must refer the student for a full and individual initial evaluation. A referral or request for an FIIE may be initiated at any time by school personnel, the student’s parents or legal guardian, or another person involved in the education or care of the student. While an FIIE is being conducted, a student must continue to receive any necessary intervention and support services to target their academic or behavioral needs.

20 U.S.C. 1414(a)(1); 34 CFR 300.301; 19 TAC 89.1011.

b) *Parent Request*

If a parent submits a written request to Uplift Education’s Director of Special Education Services or to a Uplift Education administrative employee, such as a campus principal, for an FIIE of a student, Uplift Education must, not later than the 15th school day after the date Uplift Education receives the request:

- Provide the parent with prior written notice of its proposal to conduct an evaluation consistent with 34 CFR 300.503, a copy of the procedural safeguards notice required by 34 CFR 300.504, a copy of the Overview of Special Education for Parents form created by the Texas Education Agency (TEA), and an opportunity to give written consent for the evaluation; or
- Provide the parent with prior written notice of its refusal to conduct an evaluation consistent with 34 CFR 300.503, a copy of the Overview of Special Education for Parents form created by TEA; and a copy of the procedural safeguards notice required by 34 CFR 300.504.

20 U.S.C. 1414(a)(1); 34 C.F.R. 300.301; 19 TAC 89.1011(a), (b); Tex. Educ. Code § 29.004(c).

c) *School request*

When Uplift Education initiates the referral for an FIIE of a student, Uplift Education must provide the parent with prior written notice of its proposal to conduct an evaluation consistent with 34 CFR 300.503, a copy of the

procedural safeguards notice required by 34 CFR 300.504, a copy of the Overview of Special Education for Parents form created by the Texas Education Agency (TEA), and an opportunity to give written consent for the evaluation.

19 TAC 89.1011(c).

NOTICE OF RIGHTS

Uplift Education shall provide written notice to a student’s parent or guardian within a reasonable time before proposing or refusing to initiate the identification, evaluation, or educational placement of a student or the provision of a free appropriate public education (“FAPE”).

34 CFR 300.8(c)(10).

INITIAL EVALUATION

Uplift Education shall conduct a full and individual initial evaluation before the initial provision of special education and related services.

20 U.S.C. 1414(a)(1)(A).

Uplift Education shall ensure that evaluations of children who transfer from one district to another in the same academic year are coordinated with the children’s prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of evaluations.

20 U.S.C. 1414(b)(3)(D).

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services.

20 U.S.C. 1414(a)(1)(E).

a) *Consent for Initial Evaluation*

Uplift Education shall make reasonable efforts to obtain informed parental consent before conducting an initial evaluation.

If the parent does not provide consent for an initial evaluation or fails to respond to a request to provide consent, Uplift Education may—but is not required to—pursue the initial evaluation by utilizing due process procedures, except to the extent inconsistent with state law relating to such parental consent.

Parental consent to initial evaluation shall not be construed as consent for placement for special education and related services.

20 U.S.C. 1414(a)(1)(D)(i)(1); 34 CFR 300.300.

b) Wards of the State

If the child is a ward of the state and is not residing with the child's parent, Uplift Education shall make reasonable efforts to obtain the informed consent from the parent for an initial evaluation, unless:

- Uplift Education cannot discover the whereabouts of the parent, despite reasonable efforts to do so;
- The rights of the parent have been terminated; or
- The rights of the parent to make educational decisions have been subrogated and an individual appointed by a judge to represent the student has given consent for an initial evaluation.

20 U.S.C. 1414(a)(1)(D)(iii); 34 CFR 300.300(a)(2).

PROVIDING ASSISTANCE TO STUDENTS WHO HAVE LEARNING DIFFICULTIES OR NEED SPECIAL EDUCATION SERVICES

If a student is experiencing learning difficulties, the parent may contact their child's campus principal to learn about Uplift Education's overall general education referral or screening system for support services. This system links students to a variety of support options, including referral for a special education evaluation. Students having difficulty in the regular classroom should be considered for tutorial, compensatory, and other academic or behavior support services that are available to all students, including a process based on Response to Intervention ("RtI"). The implementation of RtI has the potential to have a positive impact on Uplift Education's ability to meet the needs of all struggling students.

The Texas Education Agency shall produce and provide to Uplift Education a written explanation of the options and requirements for providing assistance to students who have learning difficulties or who need to may need special education. The explanation will state that a parent is entitled at any time to request and evaluation of the parent's child for special education services under Texas Education Code Sec. 29.004 or for aids, accommodations, or services under Section 504, Rehabilitation Act of 1973 (29 USC Section 794). Each school year, Uplift Education shall provide the written explanation produced by TEA to a parent by including the explanation in the student handbook or by another means. *Tex. Educ. Code § 26.0081(c)*.

Each school year, Uplift Education shall notify a parent of each child, other than a child enrolled in a special education program under the IDEA, who receives assistance from Uplift Education for learning difficulties, including through the use of intervention strategies that Uplift Education provides that assistance to the child. The notice must:

1. be provided when the child begins to receive the assistance for that school year;
2. be written in English or, to the extent practicable, the parent's native language; and
3. include:
 - a. a reasonable description of the assistance that may be provided to the child, including any intervention strategies that may be used;
 - b. information collected regarding any intervention in the base tier of a multi-tiered system of supports that has previously been used with the child;

- c. an estimate of the duration for which the assistance, including through the use of intervention strategies, will be provided;
- d. the estimated time frames within which a report on the child's progress with the assistance, including any intervention strategies used, will be provided to the parent; and
- e. a copy of the written explanation produced by TEA of the options and requirements for providing assistance to students who have learning difficulties or who need or may need special education. The explanation must state that a parent is entitled at any time to request an evaluation of the parent's child for special education services or for aids, accommodations, or services under Section 504 of the Rehabilitation Act ("Section 504").

Tex. Educ. Code § 26.0081(d).

SECTION 9: EVALUATION

IDEA EVALUATIONS AND REEVALUATIONS

An evaluation under the IDEA is the collection of information to determine whether a student is a student with a disability, and to determine the educational needs of the student. Uplift Education must complete a Review of Existing Evaluation Data (REED) before conducting an initial evaluation of a student, if appropriate, and as part of any reevaluation; provide the parent with a Prior Written Notice regarding the evaluation; and comply with the parental consent requirements. *See REED section below.*

REVIEW OF EXISTING EVALUATION DATA (REED)

A review of existing evaluation data (“REED”) is required as part of an initial evaluation, if appropriate, and as part of any reevaluation. The REED must be conducted by the ARD Committee members and other qualified professionals, as appropriate. The ARD Committee members may conduct the REED without a meeting. In conducting the REED, the ARD Committee must review:

- (1) evaluation and information provided by the parents of the student;
- (2) current classroom-based, local, or state assessments, and classroom-based observations; and
- (3) observations by teachers and related services providers.

On the basis of the REED, and input from the student's parents, the ARD Committee must identify what additional data, if any, are needed to determine:

- whether the student is a student with a disability, and the educational needs of the student, or, in the case of a reevaluation of the student, whether the student continues to have such a disability and the educational needs of the student;
- whether the student needs special education and related services, or, in the case of a reevaluation of the student, whether the student continues to need special education and related services;
- the present levels of academic achievement and related developmental needs of the student; and
- whether any additions or modifications to the special education and related services are needed to enable the student to meet the measurable annual goals set out in the individualized education program of the student and to participate, as appropriate, in the general education curriculum.

If the ARD Committee determines additional data is needed, Uplift Education must administer such assessments and other evaluation measures that are needed to produce the data needed. If the ARD Committee determines no additional data is needed, Uplift Education must notify the student’s parents of that determination, the reasons for such determination, and notify the parents of their right to request an evaluation. Uplift Education is not required to conduct an evaluation unless the student’s parents request one.

34 CFR 300.305(a)-(d).

GROUP OF QUALIFIED PROFESSIONALS

The evaluation is conducted by a multi-disciplinary team of qualified professionals. Upon completion of the administration of assessment and other evaluation measures by the evaluators, a group of qualified professionals and the parent of the child determines whether the child is a child with a disability and the educational needs of the child. In Texas, the group of qualified professionals that makes this determination is the student's ARD Committee. The team of qualified professionals, or the ARD Committee, that collects or reviews evaluation data in connection with the determination of eligibility must include, but is not limited to, a LSPP/School Psychologist, an educational diagnostician, or other appropriately certified or licensed practitioner with experience and training in the area of the disability; or a licensed or certified professional for a specific eligibility category.

See 19 TAC 89.1040.

For students suspected of having dyslexia or related disorders, the multidisciplinary team conducting the evaluation under the IDEA will include at least one member with specific knowledge regarding the reading process, dyslexia and related disorders, and dyslexia instruction. This individual will either:

- (1) hold a licensed dyslexia therapist license under Chapter 403 of the Texas Occupations Code;
- (2) hold the most advanced dyslexia-related certification issued by an association recognized by the State Board of Education, and identified in, or substantially similar to an association identified in, the program and rules adopted under Sections 7.102 and 38.003 of the Texas Education Code; or
- (3) if an individual qualified under (1) or (2) is not available, the member will meet the applicable training requirements adopted by the State Board of Education pursuant to Sections 7.102 and 38.003 of the Texas Education Code.

INITIAL EVALUATIONS

Uplift Education must conduct a full and individual initial evaluation (FIIE) before providing special education and related services to a student with a disability. *34 CFR 300.301(a)*. The initial evaluation must consist of procedures to determine whether the student is a student with a disability; and the educational needs of the student.

34 CFR 300.301(c)(2); 300.8(a)(1).

TIMELINE FOR CONDUCTING INITIAL EVALUATIONS

A written report of an initial evaluation must normally be completed:

- Not later than the 45th school day following the date on which Uplift Education received written consent for the evaluation from the student's parent. If a student has been absent from school during that period on three or more school days, the period must be extended by a number of school days equal to the number of school days during that period on which the student has been absent; or
- For students under five years of age by September 1 of the school year and not enrolled in public school, not later than the 45th school day following the date on which Uplift Education received written consent for the evaluation from the student's parent.

However, if Uplift Education received written parent consent at least 35, but less than 45, school days before the last instructional day of the school year:

- The written report of the FIIE must be provided to the student's parent not later than June 30 of that year; or
- If the student was absent from school during that time three or more days, the written report of the FIIE must be completed not later than the 45th school day following the date on which consent was received plus the number of school days the student was absent.

If Uplift Education received written parent consent less than 35 school days before the last day of the school year, the written report of the FIIE must be provided to the parent:

- Not later than the 45th school day following the date on which Uplift Education received written consent for the evaluation from the student's parent. If a student has been absent from school during that period on three or more school days, the period must be extended by a number of school days equal to the number of school days during that period on which the student has been absent.

Uplift Education must provide the parent a written copy of the initial FIE as soon as possible after completion of the report, but no later than five school days prior to the initial ARD Committee meeting in which a determination of initial eligibility will be discussed; or not later than June 30 if the consent was received at least 35 but less than 45 school days before the last instruction day of the school year.

In determining evaluation timelines, a "school day" does not include a day that falls after the last instructional day of the spring school term and before the first instructional day of the subsequent fall term. For purposes of evaluation timelines, a student is considered absent for the school day if the student is not in attendance at the school's official attendance taking time or alternative attendance taking time as described in the *Student Attendance Accounting Handbook*.

If the student was in the process of being evaluated for special education eligibility by another district and enrolls in Uplift Education before the previous district completes the initial evaluation, Uplift Education must coordinate with the previous district as necessary and as expeditiously as possible to ensure a prompt completion of the evaluation.

Following the completion of the initial evaluation, the ARD committee must make its decisions regarding a student's initial eligibility determination and, if appropriate, IEP and placement within 30 calendar days from the date of completion of the written FIIE report. If the 30th day falls during the summer and school is not in session, the student's ARD committee must meet not later than the 15th school day of the following school year to finalize decisions concerning the student's initial eligibility determination, and, if appropriate IEP and placement. If the 30th day falls during the summer, but an FIIE report indicates that the student would need extended school year services (ESY) during the summer, the ARD committee must meet as expeditiously as possible after completion of the report.

REEVALUATIONS

Uplift Education will complete a reevaluation of a student with a disability:

- if the student's ARD Committee determines that the educational or related services needs of the student warrant a reevaluation, including improved academic achievement and functional performance;
- if a reevaluation is requested by the student's parents or teacher; or
- before determining that the student is no longer a student with a disability.

34 CFR 300.303(a), 300.305(e).

A reevaluation must occur not more frequently than once a year, unless the parent and the ARD Committee, through the REED, agree otherwise, and at least every three years, unless the parent and the ARD Committee, through the REED, agree that a reevaluation is unnecessary.

34 CFR 300.303(b).

EVALUATION PROCEDURES

When conducting the evaluation, Uplift Education must use a variety of assessment tools and strategies to gather relevant functional, developmental, and academic information, including information provided by the parent, that may assist in determining:

- Whether the student is a student with a disability; and
- The content of the student's IEP, including information related to enabling the student to be involved in and progress in the general education curriculum, or for the preschool student, to participate in appropriate activities.

In conducting the evaluation, Uplift Education must not use any single measure or assessment as the sole criterion for determining whether the student is a student with a disability and for determining an appropriate educational program for the child; and use technically sound instruments that may assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

34 CFR 300.304.

Uplift Education will also ensure that assessments and other evaluation materials used to assess the student are:

- selected and administered so as not to be discriminatory on a racial or cultural basis;
- 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 not feasible to so provide or administer;
- used for the purposes for which the assessments or measures are valid and reliable;

- administered by trained and knowledgeable personnel; and
- administered in accordance with any instructions provided by the producer of the assessments.

34 CFR 300.304 (c).

Uplift Education also ensures that:

- assessments and other evaluation materials include those tailored to assess areas of educational need and not merely those that are designed to provide a single general intelligence quota;
- assessments are selected and administered so as to best ensure that if an assessment is administered to a child with impaired sensory, manual, or speaking skills, the assessment results accurately reflect the student's aptitude or achievement level, or whatever other factors the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (unless those skills are the factors that the test purports to measure);
- assessment tools and strategies will be provided that elicit relevant information that directly assists persons in determining the education needs of the child; and
- it implements assessment procedures that differentiate between language proficiency and disability.

Uplift Education also ensures that the student will be assessed in all areas of suspected disability, including, if appropriate:

- Health;
- Vision;
- Hearing;
- Social and emotional status;
- General intelligence;
- Academic performance;
- Communicative status and
- Motor abilities.

The evaluation will also be sufficiently comprehensive to identify all the student's special education and related service needs, whether or not commonly linked to the disability category in which the student has been classified.

34 CFR 300.304

INDEPENDENT EDUCATIONAL EVALUATION (IEE)

A parent of a student with a disability has the right to an independent educational evaluation (“IEE”) of the student at public expense if the parent disagrees with an evaluation conducted by Uplift Education. An IEE is an evaluation conducted by a qualified examiner who is not employed by Uplift Education. An evaluation is at public expense when Uplift Education either pays for the full cost of the evaluation or ensures that the evaluation is otherwise provided at no cost to the parent consistent with the provisions of the IDEA. A parent is limited to only one IEE at public expense each time Uplift Education conducts an evaluation with which the parent disagrees.

If a parent requests an IEE, Uplift Education will, without unnecessary delay either file a due process complaint to request a hearing to show that its evaluation is appropriate or ensure that an IEE is provided at public expense, unless Uplift Education demonstrates in a due process hearing that the evaluation obtained by the parent does not meet Uplift Education's criteria.

Uplift Education may ask for the reason the parent objects to the Uplift Education's evaluation; however, Uplift Education may not require the parent to provide an explanation. Uplift Education will not unreasonably delay either granting the IEE request or filing a due process complaint to request a due process hearing to defend Uplift Education's evaluation.

When the parent requests an IEE, Uplift Education will provide information about where an IEE may be obtained and Uplift Education's criteria for an IEE. Uplift Education's criteria for an IEE is the same criteria Uplift Education uses when it initiates an evaluation, including the location of the evaluation and the qualifications of the examiner(s).

If Uplift Education decides to request a due process hearing instead of agreeing to pay for an IEE and the hearing officer finds that Uplift Education's evaluation is appropriate, the parent still has a right to an IEE, but not at public expense. The parent would have to pay for the IEE. If in a due process hearing, the hearing officer orders an IEE, Uplift Education must pay for the evaluation.

The results of an IEE that meets Uplift Education's criteria must be considered by the ARD Committee in any decision made regarding the provision of FAPE to the student and may be presented by any party as evidence at a hearing on a due process complaint regarding the student.

34 CFR 300.502.

SECTION 10: ELIGIBILITY CRITERIA

ELIGIBILITY CRITERIA

A student that is at least three years old but not more than 21 years of age may be eligible for special education services if the student is found to have a disability in one of the following categories, and, by reason of the disability, has need for special education and related services:

1. Autism (AU)
2. Deaf-Blindness
3. Deaf or Hard of Hearing (DHH)
4. Emotional Disability (ED)
5. Intellectual Disability (ID)
6. Multiple Disabilities (MD)
7. Orthopedic Impairment (OI)
8. Other Health Impairment (OHI)
9. Specific Learning Disability (SLD)
10. Speech Impairment (SI)
11. Traumatic Brain Injury (TBI)
12. Visual Impairment (VI)
13. Developmental Delay (DD)
14. Noncategorical (NC)

34 CFR 300.306(a)(5), 300.8; 19 TAC 89.1040(a).

Additionally, students with visual impairments or who are deaf or hard of hearing shall be eligible to participate in Uplift Education's special education program from birth through age 21.

Tex. Educ. Code § 29.003.

DETERMINING ELIGIBILITY

Following the completion of the full and individual initial evaluation and any reevaluation, the student's admission, review, and dismissal ("ARD") committee must make an eligibility determination. The ARD committee members reviewing evaluations and data to determine eligibility must include a licensed specialist in school psychology ("LSSP")/School Psychologist and/or an educational diagnostician, and other appropriately certified or licensed practitioner with experience and training in the area of disability. Additional professional may be required as defined under each eligibility category.

19 TAC 89.1040(b).

When interpreting evaluation data for the purpose of determining if a student is a student with a disability under 34 CFR 300.8 and the educational needs of the student, Uplift Education shall:

1. 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

2. Ensure that information obtained from all of these sources is documented and carefully considered.

If a student is determined to be a student with a disability and needs special education and related services, the ARD committee must develop an individualized education program (“IEP”) for the student in accordance with 34 CFR 300.320 through 300.324 and corresponding state law.

34 CFR 300.306.

A student must not be determined to be a child with a disability if:

1. The determinant factor for that determination is:
 - a. lack of appropriate instruction in reading, including in the essential components of reading instruction;
 - b. lack of appropriate instruction in math; or
 - c. limited English proficiency/status as an emergent bilingual student; or
2. The child does not otherwise meet the eligibility criteria and 34 CFR 300.8(a).

34 CFR 300.306(b).

AUTISM (AU)

A student with autism is one has been determined to meet the criteria under 34 CFR 300.8(c)(1), which states that autism means a developmental disability significantly affecting a student’s verbal and nonverbal communication and social interactions, generally evident before age three, that adversely affects a student’s educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. A student does not meet the eligibility category for autism if a student’s educational performance is adversely affected primarily because the student has an emotional disturbance, as defined below and in 34 CFR 300.8(c)(4). A student who manifests the characteristics of autism after age three could be identified as having autism if he or she meets the definition of autism.

34 CFR 300.8(c)(1); 19 TAC 89.1040(c)(1).

A determination of whether a student meets the criteria for autism as stated in 34 CFR 300.8(c)(1), cannot require that the student meets the requirements for a medical/psychological diagnosis of autism. In addition, the absence of “other characteristics” often associated with autism listed in the IDEA definition does not exclude a student from meeting eligibility as a student with autism.

19 TAC 89.1040(c)(1).

The written evaluation determining eligibility under autism must include specific recommendations for

communication, social interaction, and positive behavioral interventions and strategies.

19 TAC 89.1040(c)(1).

DEAF-BLINDNESS

A student with deaf-blindness is one who has been determined to meet the criteria for deaf-blindness under 34 CFR 300.8(c)(2), which states that deaf-blindness means that the student has concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for students with deafness or students with blindness.

34 CFR 300.8(c)(2).

In meeting the criteria under 34 CFR 300.8(c)(2), a student with deaf-blindness is one who, based on the evaluations specified for deaf or hard of hearing and visual impairment below:

1. meets the eligibility criteria for student who is deaf or hard of hearing specified in subsection 19 TAC 89.1040(c)(3) and visual impairment specified in subsection 19 TAC 89.1040 (c)(12);
2. meets the eligibility criteria for a student with a visual impairment and has a suspected hearing loss that cannot be demonstrated conclusively, but a speech/language therapist, a certified speech and language therapist, or a licensed speech language pathologist indicates there is no speech at an age when speech would normally be expected;
3. has documented hearing and visual losses that, if considered individually, may not meet the requirements for a student who is deaf or hard of hearing or for visual impairment, but the combination of such losses adversely affects the student's educational performance; or
4. has a documented medical diagnosis of a progressive medical condition that will result in concomitant hearing and visual losses that, without the provision of special education services, will adversely affect the student's educational performance.

19 TAC 89.1040(c)(2).

DEAF OR HARD OF HEARING (DHH)

A student who is deaf or hard of hearing is one who has been determined to meet the criteria for deafness under 34 CFR 300.8(c)(3), which states that deafness means a hearing impairment that is so severe that the student is impaired in processing linguistic information through hearing, with or without amplification, that adversely affects a student's educational performance; or for students who have a hearing impairment as defined in 34 CFR 300.8(c)(5), which states that hearing impairment means an impairment in hearing, whether permanent or fluctuating, that adversely affects a student's educational performance but that is not included under the definition of deafness.

34 CFR 300.8(c)(3),(5); 19 TAC 89.1040(c)(3).

The student's evaluation data reviewed by the multidisciplinary team in connection with the determination of a

student's eligibility based on being deaf or hard of hearing must include an audiological evaluation performed by a licensed audiologist and a communication assessment completed by the multidisciplinary team. The evaluation data must include a description of the implications of the hearing loss for the student's hearing in a variety of circumstances with or without recommended hearing assistive technology.

19 TAC 89.1040(c)(3).

EMOTIONAL DISABILITY (ED)

A student with an emotional disability is one who has been determined to meet the criteria for emotional disturbance under 34 CFR 300.8(c)(4), which states that emotional disturbance means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a student's educational performance:

1. an inability to learn that cannot be explained by intellectual, sensory, or health factors;
2. an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
3. inappropriate types of behavior or feelings under normal circumstances;
4. a general pervasive mood of unhappiness or depression; or
5. a tendency to develop physical symptoms or fears associated with personal or school problems.

Emotional disability includes schizophrenia, but does not include students who are socially maladjusted, unless it is determined that they also have an emotional disability under the criteria above. A written evaluation for emotional disability must include specific recommendations for positive behavioral supports and interventions.

The term emotional disability is synonymous with the term emotional disturbance and serious emotional disturbance, as these terms are used in federal or state law pertaining to students eligible for special education and related services.

34 CFR 300.8(c)(4); 19 TAC 89.1040(c)(4).

INTELLECTUAL DISABILITY (ID)

A student with an intellectual disability is one who has been determined to meet the criteria for intellectual disability under 34 CFR 300.8(c)(6), which states that intellectual disability means significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a student's educational performance.

In meeting the criteria stated in 34 CFR 300.8(c)(6), a student with an intellectual disability is one who:

1. has been determined to have significantly subaverage intellectual functioning as measured by a standardized, individually administered test of cognitive ability in which the overall test score is at least two standard deviations below the mean, when taking into consideration the standard error of measurement of the test; and
2. concurrently exhibits deficits in at least two of the following areas of adaptive behavior: communication,

self-care, home living, social/interpersonal skills, use of community resources, self-direction, functional academic skills, work, leisure, health, and safety.

34 CFR 300.8(c)(6); 19 TAC 89.1040(c)(5).

MULTIPLE DISABILITY (MD)

A student with multiple disabilities is one who has been determined to meet the criteria for multiple disability under 34 CFR 300.8(c)(7), which states that multiple disabilities means concomitant impairments (such as intellectual disability-blindness or intellectual disability-orthopedic impairment), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments. Multiple disabilities does not include deaf-blindness.

34 CFR 300.8(c)(7).

In meeting the criteria of 34 CFR 300.8(c)(7), that a combination of impairments causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments, a student with multiple disabilities is one who has a combination of disabilities defined in state law and who meets all of the following conditions:

1. the students disabilities are expected to continue indefinitely; and
2. the disabilities severely impair performance in two or more of the following areas:
 - a. psychomotor skills;
 - b. self-care skills;
 - c. communication;
 - d. social and emotional development; or
 - e. cognition.

A student who has more than one of the disabilities defined under the IDEA, but who does not meet the criteria above must not be classified or reported as having multiple disabilities.

19 TAC 89.1040(c)(6).

ORTHOPEDIC IMPAIRMENT (OI)

A student with an orthopedic impairment is one who has been determined to meet the criteria for orthopedic impairment under 34 CFR 300.8(c)(8), which states that orthopedic impairment means a severe orthopedic impairment that adversely affects a student's educational performance, including impairments caused by congenital anomaly, impairments caused by disease (e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures). A student's eligibility based on an orthopedic impairment must include a medical diagnosis provided by a licensed physician.

34 CFR 300.8(c)(8); 19 TAC 89.1040(c)(7).

OTHER HEALTH IMPAIRMENT (OHI)

A student with other health impairment is one who has been determined to meet the criteria for other health impairment under 34 CFR 300.8(c)(9), which states that other health impairment means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that is due to chronic or acute health problems such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette's Disorder; and adversely affects a student's educational performance.

34 CFR 300.8(c)(9)(i).

A student's eligibility based on other health impairment must include identification or confirmation of the student's chronic or acute health problem provided by a licensed physician, a physician assistant, or an advanced practice registered nurse with authority delegated under Texas Occupations Code, Chapter 157.

19 TAC 89.1040(c)(8).

SPECIFIC LEARNING DISABILITY (SLD)

Specific learning disability means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations. Specific learning disability includes conditions such as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. Specific learning disability does not include learning problems that are primarily the result of visual, hearing, or motor disabilities; intellectual disability; emotional disability; or environmental, cultural, or economic disadvantage.

34 CFR 300.8(c)(10); 19 TAC 89.1040(c)(9).

A student with a specific learning disability is one who:

1. has been determined through a variety of assessment tools and strategies to meet the criteria of 34 CFR 300.8(c)(10) in accordance with the provisions in 34 CFR 300.307-300.311;
2. when provided with learning experiences and instruction appropriate for the student's age or state-approved grade-level standards as indicated by performance on multiple measures such as in-class tests, grade average over time (e.g. six weeks or semester), repeated performance on progress monitoring measures, norm- or criterion-referenced tests, and statewide assessments, does not achieve adequately for the student's age or to meet state-approved grade-level standards in one or more of the following areas:
 - a. oral expression;
 - b. listening comprehension;
 - c. written expression, which may include dysgraphia;
 - d. basic reading skill, which may include dyslexia;
 - e. reading fluency skills, which may include dyslexia;

- f. reading comprehension;
 - g. mathematics calculation; or
 - h. mathematics problem solving; and
3. meets one of the following criteria:
- a. does not make sufficient progress or meet age or state-approved grade-level standards in one or more of the areas identified in (2) above when using a process based on the student's response to scientific, research-based intervention; or
 - b. exhibits a pattern of strengths and weaknesses in performance, achievement, or both relative to age, state-approved grade-level standards, or intellectual development that is determined to be relevant to the identification of a special learning disability, using appropriate assessments, consistent with 34 CFR 300.304 and 300.305.

The student must also not meet the requirements of (2) and (3) above primarily as a result of a visual, hearing, or motor disability; an intellectual disability; emotional disability; cultural factors; environmental or economic disadvantage; or being emergent bilingual. In addition, the presence of a significant variance among specific areas of cognitive function or between specific areas of cognitive function and academic achievement is not required when determining whether a student has a specific learning disability.

19 TAC 89.1040(c)(9).

Uplift Education shall ensure that the underachievement by a student suspected of having a specific learning disability is not due to a lack of appropriate instruction in reading or mathematics by considering data that demonstrates the student was provided appropriate instruction in reading (as described in 20 USC 6368(3)) and/or mathematics within general education settings delivered by qualified personnel. In addition, Uplift Education shall also consider data-based documentation of repeated assessments of achievement at reasonable intervals, reflecting formal evaluation of student progress during instruction, which must be provided to the student's parents. Data-based documentation of repeated assessment may include, but is not limited to, RTI progress results, in-class tests on grade-level curriculum, or other regularly administered assessments. Intervals are considered reasonable if consistent with the assessment requirements of a student's specific instructional program.

19 TAC 89.1040(c)(9)(D).

Uplift Education must ensure that the student is observed in the student's learning environment, including the general education classroom setting, to document the student's academic performance and behavior in the areas of difficulty. In determining whether a student has a specific learning disability, the multidisciplinary team must decide to either use information from an observation in routine classroom instruction and monitoring of the student's performance that was conducted before the student was referred for an evaluation or have at least one of the members described below conduct an observation of the student's academic performance in the general education classroom after the student has been referred for an evaluation and the school district has obtained parental consent consistent with 34 CFR, §300.300(a). In the case of a student of less than school age or out of school, the student must be observed in an environment appropriate for a student of that age.

19 TAC 89.1040(c)(9)(E).

The determination of whether a student suspected of having a specific learning disability is a child with a disability as defined in 34 CFR, §300.8, must be made by the student's parents and a team of qualified professionals, which must include at least one person qualified to conduct individual diagnostic examinations of children such as a licensed specialist in school psychology/school psychologist, an educational diagnostician, a speech-language pathologist, or a remedial reading teacher and one of the following:

1. the student's general education teacher;
2. if the student does not have a general education teacher, a general education classroom teacher qualified to teach a student of his or her age; or
3. for a student of less than school age, an individual qualified by the Texas Education Agency to teach a student of his or her age.

19 TAC 89.1040(c)(9)(F).

When a student is identified with dyslexia and/or dysgraphia, the terms dyslexia and/or dysgraphia, as appropriate, must be used in a student's evaluation report. For formal eligibility purposes under special education, the category of specific learning disability will be reported by Uplift Education. Additional requirements in addition to the above for students evaluated for SLD as a student suspected of having dyslexia, dysgraphia, or other dyslexia related disorders, *see Section 7. Dyslexia.*

19 TAC 89.1040(c)(9)(G).

SPEECH IMPAIRMENT (SI)

A student with a speech impairment is one who has been determined to meet the criteria for speech or language impairment under 34 CFR 300.8(c)(11), which states that speech or language impairment means a communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a student's educational performance. The multidisciplinary team that collects or reviews evaluation data in connection with the determination of a student's eligibility based on a speech impairment must include a certified speech and hearing therapist, a certified speech and language therapist, or a licensed speech/language pathologist.

34 CFR 300.8(c)(11); 19 TAC 89.1040(c)(10).

TRAUMATIC BRAIN INJURY

A student with a traumatic brain injury is one who has been determined to meet the criteria for traumatic brain injury under 34 CFR 300.8(c)(12), which states that a traumatic brain injury means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a student's educational performance. Traumatic brain injury applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. Traumatic brain injury does not

apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

34 CFR 300.8(c)(12); 19 TAC 89.1040(c)(11).

A student's eligibility based on a traumatic brain injury must include a medical diagnosis provided by a licensed physician.

19 TAC 89.1040(c)(11).

VISUAL IMPAIRMENT

A student with a visual impairment is one who has been determined to meet the criteria for visual impairment under 34 CFR 300.8(c)(13), which states that visual impairment means an impairment in vision that, even with correction, adversely affects the student's educational performance, and includes both partial sight and blindness.

34 CFR 300.8(c)(13); 19 TAC 89.1040(c)(12)

Information from a variety of sources must be considered by the multidisciplinary team that collects or reviews evaluation data in connection with the determination of a student's eligibility based on visual impairment in order to determine the need for specially designed instruction as stated in 34 CFR 300.39(b)(3), and must include:

1. a medical report by a licensed ophthalmologist or optometrist that indicates the visual loss stated in exact measures of visual field and corrected visual acuity, at a distance and at near range, in each eye. If exact measures cannot be obtained, the eye specialist must so state and provide best estimates. The report should also include a diagnosis and prognosis whenever possible and whether the student has no vision or visual loss after correction; or a progressive medical condition that will result in no vision or a visual loss after correction;
2. a functional vision evaluation by a certified teacher of students with visual impairments or a certified orientation and mobility specialist. The evaluation must include the performance of tasks in a variety of environments requiring the use of both near and distance vision and recommendations concerning the need for a clinical low vision evaluation;
3. a learning media assessment by a certified teacher of students with visual impairments. The learning media assessment must include recommendations concerning which specific visual, tactual, and/or auditory learning media are appropriate for the student and whether or not there is a need for ongoing evaluation in this area; and
4. as part of the full individual and initial evaluation, an orientation and mobility evaluation conducted by a person who is appropriately certified as an orientation and mobility specialist. The orientation and mobility evaluation must be conducted in a variety of lighting conditions and in a variety of settings, including in the student's home, school, and community, and in settings unfamiliar to the student.

A person who is appropriately certified as an orientation and mobility specialist must participate in an initial eligibility determination and any reevaluation as part of the multidisciplinary team, in evaluating data used to

make the determination of the student's need for specially designed instruction.

19 TAC 89.1040(c)(12).

DEVELOPMENTAL DELAY

A student with a developmental delay is one who is between the ages of 3-9 who is evaluated by a multidisciplinary team for at least one disability category listed in Sections 3-14 above and whose evaluation data indicates a need for special education and related services and shows evidence of, but do not clearly confirm, the presence of the suspected disability or disabilities due to the child's young age. In these cases, an ARD Committee may determine that data supports identification of developmental delay in one or more of the following areas:

1. Physical development;
2. Cognitive development;
3. Communication development;
4. Social or emotional development; or
5. Adaptive development.

To use this eligibility category, multiple sources of data must converge to indicate the student has a developmental delay as described by one of the following:

1. Performance on appropriate norm-referenced measures, including developmental measures, indicate that the student is at least 2 standard deviations below the mean or at the 2nd percentile of performance, when taking into account the standard error of measurement (SEM), in one area of development as listed above, along with additional convergent evidence such as interviews and observation data that supports the delay in that area;
2. Performance on appropriate norm-referenced measures, including developmental measures, indicate that the student is at least 1.5 standard deviations below the mean or at the 7th percentile of performance, when taking into account the SEM, in at least two areas of development as listed above, along with additional convergent evidence such as interviews and observation data that supports the delays in those areas; or
3. A body of evidence from multiple direct and indirect sources, such as play-based assessments, information from the student's parent, interviews, observations, work samples, checklists, and other informal and formal measures of development, that clearly document a history and pattern of atypical development that is significantly impeding the student's performance and progress across settings when compared to age-appropriate expectations and developmental milestones in one or more areas of development as listed above.

Uplift Education is not required to use the eligibility category of developmental delay. However, if Uplift Education chooses to use this eligibility category, it must use the definition and criteria described in 19 TAC 89.1040(c)(13) as described above.

19 TAC 89.1040(c)(13) and (d).

NONCATEGORICAL

A student between the ages of 3-5 who is evaluated as having an intellectual disability, an emotional disturbance, a specific learning disability, or autism may be described as noncategorical early childhood.

19 TAC 89.1040(c)(14).

The eligibility category of noncategorical must no longer be used by Uplift Education beginning with the 2025-2026 school year. Any eligible student who begins the 2025-2026 school year already identified as noncategorical may maintain this eligibility category, if determined appropriate by the student's ARD Committee, until the required re-evaluation before the age of 6.

19 TAC 89.1040(d)(3).

SECTION 11: ADMISSION, REVIEW, AND DISMISSAL COMMITTEE

ADMISSION, REVIEW AND DISMISSAL COMMITTEES

Uplift Education shall establish an admission, review and dismissal (“ARD”) committee for each eligible student with a disability and for each student for whom a full and individual initial evaluation is conducted. The ARD committee is the individualized education program (“IEP”) team defined in federal law and regulations, including 34 CFR 300.321.

Uplift Education is responsible for all of the functions for which the IEP team is responsible under federal law and regulations and for which the ARD committee is responsible under state law, including the responsibilities listed at 19 TAC 89.1050.

19 TAC 89.1050(a); 34 CFR 300.116(a), 300.321(a).

COMMITTEE MEMBERS

Uplift Education shall ensure that each ARD committee meeting includes:

1. The parents of a student with a disability;
2. At least one general education teacher of the student (if the student is, or may be, participating in the general education environment) who must, to the extent practicable, be a teacher who is responsible for implementing a portion of the student’s IEP;
3. At least one special education teacher, or where appropriate, at least one special education provider of the student;
4. A representative of Uplift Education who:
 - a. Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of students with disabilities;
 - b. Is knowledgeable about the general education curriculum; and
 - c. Is knowledgeable about the availability of Uplift Education’s resources;
5. At the discretion of the parent or Uplift Education, other individuals who have knowledge or special expertise regarding the student, including related services personnel as appropriate;
6. An individual who can interpret the instructional implications of evaluation results, who may be a member of team described in Section 2 (2)-(5);
7. The student, whenever appropriate;
8. To the extent appropriate, with the consent of the parent(s) or a student who has reached the age of majority, a representative of any participating agency that is likely to be responsible for providing or paying for transition services;
9. A representative from career and technical education (“CTE”), preferably the teacher, when considering initial or continued placement of a student in CTE;
10. For a child who is an emergent bilingual student, a member of the student’s language-proficiency assessment committee (“LPAC”);

11. For a student who is suspected or documented to be deaf or hard of hearing, a teacher who is certified in the education of students who are deaf or hard of hearing;
12. For a student with a suspected or documented visual impairment, a teacher who is certified in the education of students with visual impairments;
13. For a student with suspected or documented deaf-blindness, a teacher who is certified in the education of students with visual impairments and a teacher who is certified in the education of students who are deaf or hard of hearing; and
14. For a student who is suspected or identified with dyslexia, when determining initial or continued eligibility, the ARD committee must include a professional who meets the requirements of TEC 29.0031(b) and 19 TAC 74.28 (relating to Students with Dyslexia and Related Disorder), including any requirements in the Dyslexia Handbook.

The special education teacher or special education provider that participates in the ARD committee meeting must be appropriately certified or licensed as required by 34 CFR 300.156.

19 TAC 89.1050.

An Uplift Education member of the ARD committee shall not be required to attend an IEP meeting, in whole or in part, if the parent and Uplift Education agree in writing that the attendance is not necessary because the member's area of the curriculum or related services is not being modified or discussed during the meeting. A Uplift Education member of the ARD committee 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 curriculum or related services if the parent, in writing, and Uplift Education consent to the excusal and the member submits, in writing, to the parent and the ARD committee, input into the development of the IEP before the meeting.

20 U.S.C. 1414(d)(1)(C); 34 CFR 300.321(e).

If the ARD committee is meeting to consider postsecondary goals and the transition services needed to assist the student in reaching those goals, Uplift Education shall invite:

1. The student. If the student does not attend, Uplift Education shall take other steps to ensure that the student's preferences and interests are considered.
2. To the extent appropriate, and with the consent of the parent or student who has reached the age of majority, a representative of any other agency that is likely to be responsible for providing or paying for transition services.

34 CFR 300.321(b).

PARENTAL PARTICIPATION AND INVOLVEMENT IN ARD MEETING

Uplift Education shall take steps to ensure that one or both of the parents of a student with a disability are present at each ARD committee meeting or are afforded the opportunity to participate, including:

1. notifying the parents of the meeting early enough to ensure that they will have an opportunity to attend

- (the notice shall include all information required by applicable regulation); and
2. scheduling the meeting at a mutually agreed time and place.

Uplift Education must provide the parents with written notice of the ARD committee meeting at least five school days before the meeting unless the parents agree to a shorter timeframe. Additionally, Uplift Education must allow parents who cannot attend an ARD committee meeting to participate in the meeting through other methods such as through telephone calls or video conferencing.

19 TAC 89.1050.

Written notice of an ARD committee meeting, as required by 19 TAC 89.1050(d), must be provided in the parent's native language, unless it is clearly not feasible to do so. If the parent's native language is not a written language, Uplift Education must take steps to ensure that the notice is translated orally or by other means to the parent in his or her native language or other mode of communication so that the parent understands the content of the notice.

Uplift Education shall take all reasonable actions necessary to ensure that the parent understands the proceedings of the ARD committee meeting, including arranging for an interpreter for parents who are deaf or hard of hearing or whose native language is a language other than English.

34 CFR 300.322(a)–(b); 19 TAC 89.1050(f).

Upon request of a written request for an ARD committee meeting from a parent, Uplift Education must:

1. Schedule and convene a meeting or;
2. Within 5 school days, provide the parent with written notice explaining why the district refuses to convene a meeting in the parent's native language, unless it is clearly not feasible to do so. If the parent's native language is not a written language, Uplift Education must take steps to ensure that the notice is translated orally or by other means to the parent in his or her native language or other mode of communication so that the parent understands the content of the notice.

19 TAC 89.1050(e), (f).

An ARD committee meeting may be conducted without a parent in attendance if Uplift Education is unable to convince the parents that they should attend. In such event, Uplift Education must keep a record of its attempts to arrange a mutually agreed time and place, such as detailed records of telephone calls made or attempted and the results of those calls; copies of correspondence sent to the parents and any responses received; and detailed records of visits made to the parent's home or place of employment and the results of those visits.

34 CFR 300.322(d).

ARD COMMITTEE MEETINGS

Uplift Education shall initiate and conduct ARD committee meetings for the purpose of developing, reviewing, and revising the IEP of a student with a disability. The committee shall review each student's IEP periodically,

and, if appropriate, revise the IEP. A meeting must be held for this purpose at least once a year. The ARD committee must also determine the child's placement once per year.

If the student has a behavioral intervention plan ("BIP") as part of the child's IEP, the ARD committee must review the BIP at least annually and more frequently if appropriate to address the safety of the student, the safety of others, or changes in the child's circumstances that may impact the child's behavior in accordance with TEC 29.005(h).

A meeting does not include informal or unscheduled conversations involving Uplift Education personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provision. A meeting also does not include preparatory activities that Uplift Education personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

20 U.S.C. 1414(d)(4); 34 CFR 300.116(b)(1), 300.324(b), (c)(1); 300.501(b)(3).

ELIGIBILITY DETERMINATIONS

The group of qualified professionals that determines whether a child is a child with a disability and the child's educational needs is the ARD committee.

Evaluations and eligibility determinations, including timelines, shall adhere to the requirements set forth in the IDEA, the Texas Education Code, and their implementing regulations. For additional information, *see* PG-6.14 through 6.16. *19 TAC 89.1040(b), 89.1050(a)(5); 34 CFR 300.306(a)(1).*

Uplift Education shall provide a copy of the evaluation report and the documentation of determination of eligibility at no cost to the parent. *20 U.S.C. 1414(b)(4)(B); 34 CFR 300.306(a).* A copy of the written full individual and initial evaluation (FIIE) report must be provided to the student's parents as soon as possible after completion of the report but no later than five school days prior to the initial ARD committee meeting. However if Uplift Education received written consent for the evaluation from the student's parent at least 35 but less than 45 school days before the last instructional day of the school year, the written report of an FIIE of a student must be provided to the student's parent not later than June 30 of that year.

The ARD committee must make its decisions regarding a student's initial eligibility determination and, when appropriate, the student's IEP and placement within the timeframes prescribed by state and federal law. Specifically, the ARD Committee must make its decisions regarding a student's initial eligibility determination and, if appropriate IEP and placement within 30 calendar days from the date of the completion of the written FIIE report. If the 30th day falls during the summer and school is not in session, the ARD Committee must meet not later than the 15th school day of the following school year to finalize decisions concerning the student's initial eligibility determination, and, if appropriate, IEP and placement. If the 30th day falls during the summer and school is not in session but an FIIE report indicates that the student would need extended school year services during the summer, the ARD committee must meet as expeditiously as possible after completion of the report.

19 TAC 89.1011(g).

INDIVIDUALIZED EDUCATION PROGRAM

Uplift Education shall develop, review, and revise an IEP for each child with a disability, and Uplift Education shall have an IEP in effect for each child with a disability at the beginning of each school year.

20 U.S.C. 1412(a)(4),(d)(2)(A); 34 CFR 300.320(a).

The IEP must comply with the requirements of 34 CFR 300.320 and 300.324 and include all applicable information under Texas Education Code Sec. 29.0051. Under 34 CFR 300.320, the term “individualized education program” or “IEP” means a written statement for each child that is developed, reviewed, and revised in an ARD meeting, and must include:

1. A statement of the child’s present levels of academic achievement and functional performance, including how the child’s disability affects the child’s involvement and progress in the general education curriculum;
2. A statement of measurable annual goals, including academic and functional goals designed to 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 meet each of the child’s other educational needs that result for the child’s disability; and for children with disability who take alternate assessments aligned to alternate academic achievement standards, a description of benchmarks or short-term objectives;
3. A description of how the child’s progress toward the annual goals will be measured and when periodic reports on the progress of the child will be provided;
4. A statement of the specific 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 -- to advance appropriate toward attaining the annual goals, to be involved in and make progress in the general education curriculum and to participate in extracurricular and other nonacademic activities, and to be educated and participate with other children with disability and nondisabled children in such activities;
5. An explanation of the extent, if any, to which the child will not participate with nondisabled children in the general education class and in extracurricular and nonacademic activities;
6. A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on state or system-wide assessments, and if an alternative assessment is selected by the ARD Committee, a statement of why the child cannot participate in the general education assessment; and why the particular alternate assessment selected is appropriate for the child;
7. The projected date for the beginning of the services and modifications and the anticipated frequency, location, and duration of those services and modifications;

8. Beginning not later than the first IEP to be in effect when the child is 14, or younger if determined appropriate by the ARD committee, and updated annually thereafter, a statement of appropriate, measurable postsecondary goals and transition services needed to assist the child in reaching those goals;
9. Beginning not later than one year before the child reaches the age of 17 and at 18, a statement that the child has been informed of the rights that will transfer to the child upon reaching the age of majority.
10. The date of the meeting;
11. The name, position, and signature of each member participating in the meeting; and
12. An indication of whether the child's parents, the adult student, if applicable, and the administrator agreed or disagreed with the decisions of the ARD committee.

20 U.S.C. 1414(d); 34 CFR 300.320; 19 TAC 89.1055.

In developing each student's IEP, the ARD committee must consider the strengths of the child, the concerns of the parents for enhancing the education of their child, the results of the initial or most recent evaluation of the child, and the academic, development, and functional needs of the child. *34 CFR 300.324(a)(1)*. In addition, the ARD Committee must consider stated special factors in accordance with *34 CFR 300.324(a)(2)* for students with behavior that impede the student's learning or that of others, for emergent bilingual students, for students who are visually impaired, communication needs for students, and assistive technology devices and services for students.

34 CFR 300.324(a)(2).

To be considered a measurable annual goal, a goal must include the components of a timeframe, condition, behavior, and criterion. While at least one measurable goal is required, the number of annual goals will be determined by the ARD committee after examination of the student's present levels of academic achievement and functional performance and areas of need. Annual goals are also required in the following circumstances:

1. When the content of a subject/course is modified, whether the content is taught in a general or special education setting, in order to address how the content is modified; and
2. When a student is removed from the general education setting for a scheduled period of time but the content of the subject/course is not modified (e.g., a student is progressing on enrolled grade level curriculum but requires a more restrictive environment for a period of time due to behavioral concerns).

Short term objectives/benchmarks, used as intermediary steps or milestones toward accomplishing an annual goal, may be included in a measurable annual goal. Short-term objectives/benchmarks must be included in an annual goal if the ARD committee has determined that a student will not participate in the general state assessment; and regardless of whether the objectives/benchmarks are related to a student not participating in the general state assessment, cannot be used as the criterion to indicate mastery of the annual goal.

19 TAC 89.1055(b).

IEPs FOR STUDENTS WITH AUTISM

For students with autism eligible under 19 TAC 89.1040(c)(1), the following strategies shall be considered by the ARD committee, at least annually based on peer-reviewed, research-based educational programming practices to the extent practicable and, when needed, addressed in the IEP:

1. Extended educational programming;
2. Daily schedules reflecting minimal unstructured time and active engagement in learning activities;
3. In-home training and community-based training or viable alternatives that assist the student with the acquisition of social, behavioral, communication, and self-help skills;
4. Positive behavior support strategies based on relevant information;
5. Beginning at any age, futures planning for integrated learning and training, living, work, community, and educational environments that considers skills necessary to function in current and post-secondary environments, including self-determination and self-advocacy skills;
6. Parent/family training and support, provided by qualified personnel with experience in autism;
7. Suitable staff-to-student ratio appropriate to identified activities and as needed to achieve social/behavioral progress based on the student's developmental and learning level (acquisition, fluency, maintenance, generalization) that encourages work towards individual independence;
8. Communication interventions, including language forms and functions that enhance effective communication across settings;
9. Social skills supports and strategies based on social skills assessment/curriculum and provided across settings;
10. Professional educator/staff support; and
11. Teaching strategies based on peer-reviewed, research-based practices for students with autism.

If the ARD committee determines that services are not needed in one or more of the areas in 1–11 above, the IEP shall include a statement reflecting that decision and the basis upon which the determination was made.

19 TAC 89.1055(e)–(f).

IEPs FOR STUDENTS WITH DYSLEXIA

For students identified with the specific learning disability of dyslexia or a related service, the IEP must also be developed and implemented in accordance with the requirements under 19 TAC 74.28 (related to Students with Dyslexia and Related Disorders), including the Dyslexia Handbook. *See Section 7. Dyslexia.*

IEPs FOR STUDENTS WITH VISUAL IMPAIRMENT

Uplift Education shall adopt written procedures as required in Texas Education Code Sec. 30.002(c)(10) for providing special education services to students with visual impairments, if such services are necessary.

19 TAC 89.1075(b).

An IEP for a student with a visual impairment must include instruction in Braille and the use of Braille unless the

student's ARD committee determines, after an evaluation of the child's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the child's future needs for instruction in Braille or use of Braille), that instruction in Braille or the use of Braille is not appropriate for the student.

34 CFR 300.324(2)(iii); Tex. Educ. Code § 30.002.

IEPs FOR STUDENTS WHO ARE DEAF OR HARD OF HEARING

Uplift Education must develop an IEP for students who are deaf or hard of hearing in which the students have an education in which their unique communication mode is respected, used, and developed to an appropriate level of proficiency.

Tex. Educ. Code § 29.303.

LEAST RESTRICTIVE ENVIRONMENT

Uplift Education shall ensure that, to the maximum extent possible, children with disabilities shall be educated with children who are not disabled. Special classes, special schooling, or other removal of children with disabilities from the general educational environment shall occur only when the nature or severity of the child's disability is such that education in general education classes with the use of supplementary aids and services cannot be satisfactorily achieved.

20 U.S.C. 1412(a)(5); 34 CFR 300.114(a)(2).

EXTENDED SCHOOL YEAR SERVICES

Uplift Education shall ensure that ESY services are available as necessary to provide a student with a disability with a FAPE. ESY services must be provided only if the ARD committee determines, on an annual basis, that the services are necessary for a FAPE. Uplift Education may not limit ESY services to particular categories of disability or unilaterally limit the type, amount, or duration of ESY services.

34 CFR 300.106; 19 TAC 89.1065.

The need for ESY services must be documented using data collected by the campus and the student's parents using formal or informal assessments. The documentation must demonstrate that in one or more critical areas addressed in the current IEP where the student has previously demonstrated acquired progress, 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 previously acquired progress in one or more critical IEP areas in the absence of ESY services. The reasonable period of time for recoupment of acquired critical skills must 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 must not exceed eight weeks.

19 TAC 89.1065

If the ARD Committee determines that the student is in need of ESY services, then the IEP must identify which goals and objectives in the IEP will be addressed during ESY services.

19 TAC 89.1055(e).

If a student whose IEP notes that ESY services are required withdraws from one LEA and registers in Uplift Education during the summer months, Uplift Education will be responsible for ensuring that the ESY services are provided. This may include the direct provision of those services or contracting with the previous district or another entity to provide the services or payment for the services.

19 TAC 89.1065.

STATE AND SCHOOLWIDE ASSESSMENTS

The TEA shall develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to each student in a special education program for whom a state assessment instrument adopted under Texas Education Code Sec. 39.023(a), even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's ARD committee, including assessment instruments approved by the Commissioner that measures growth. The assessment instruments developed or adopted, including the assessment instruments approved by the Commissioner, must, to the extent allowed under federal law, provide a district with options for the assessment of students.

The TEA may not adopt a performance standard that indicates that a student's performance on the alternate assessment does not meet standards if the lowest level of the assessment accurately represents the student's developmental level as determined by the student's ARD committee.

The student's ARD committee shall determine whether any allowable modification is necessary in administering to the student a required end-of-course ("EOC") assessment instrument under Texas Education Code Sec. 39.023(c), and whether the student is required to achieve satisfactory performance on an EOC assessment instrument to receive a high school diploma.

The ARD committee for each student who receives special education and related services must determine what accommodations are needed on school assessments. A statement of accommodations must be included in the IEP.

For students that cannot participate in a regular assessment, even with accommodations, TEA will develop alternate assessments and guidelines for students with disabilities who participate in statewide alternate assessments.

If the ARD committee determines that the student will take an alternative schoolwide assessment, the ARD committee must note in the IEP:

1. Why the child cannot participate in the regular assessment; and
2. Why the alternate assessment is appropriate for the student.

TRANSPORTATION

Uplift Education shall provide special transportation with federal funds only when the ARD committee determines that the condition of the student warrants the service in order for the student to receive the special education and related services (if any) set forth in the IEP.

19 TAC 89.1096(e).

BEHAVIOR IMPROVEMENT PLANS/BEHAVIOR INTERVENTION PLANS

The ARD committee may determine that a behavior improvement plan or a behavioral intervention plan (“BIP”) is appropriate for a student with an IEP. If deemed appropriate, the BIP shall be included as part of the student's IEP and provided to each teacher with responsibility for educating the student.

If a BIP is included as part of a student's IEP, the ARD committee shall review the plan at least annually and more frequently if appropriate, to address:

1. changes in a student's circumstances that may impact the student's behavior, such as:
 - a. the placement of the student in a different educational setting;
 - b. an increase or persistence in disciplinary actions taken regarding the student for similar types of behavioral incidents;
 - c. a pattern of unexcused absences; or
 - d. an unauthorized unsupervised departure from an educational setting; or
2. the safety of the student or others.

Tex. Educ. Code § 29.005(g),(h); 19 TAC 89.1055

PARENT-DIRECTED SPECIAL EDUCATION SERVICES (PDSES)

The Texas Education Agency (“TEA”) will administer a supplemental special education services program described under Chapter 29, Education Code, Subchapter A-1, under the name Parent-Directed Special Education Services (PDSES). PDSES provides a grant of not more than \$1,500 to the parent of an eligible student for use in the purchasing of materials and services through the curated marketplace of educational goods and services.

a) ARD Committee Duties

Uplift Education shall notify families of the program and, unless Uplift Education has verified that a parent has already received or applied for a program grant, shall provide the following at the student’s ARD Committee meeting:

1. Instructions and resources on accessing the online accounts, including the application window established by TEA; and
2. Information about the types of goods and services that are available through the grant program.

Tex. Educ. Code § 29.048(b); 19 TAC 102.1601.

b) ARD Committee Prohibited Considerations

The ARD committee may not consider a student's current or anticipated eligibility for any materials or services that may be provided under the PDSES program when developing or revising a student's IEP, when determining a student's educational setting, or in the provision of a free appropriate public education.

Tex. Educ. Code § 29.048(a); 19 TAC 102.1601(k).

TRANSLATING IEPs

If the child's parent is unable to speak English, Uplift Education shall:

1. Provide the parent with a written or audio-taped copy of the child's IEP translated into Spanish if Spanish is the parent's native language; or
2. If the parent's native language is a language other than Spanish, make a good faith effort to provide the parent with a written or audiotaped copy of the child's IEP translated into the parent's native language.

Tex. Educ. Code § 29.005(d).

A written copy of the student's IEP translated into Spanish or the parent's native language means that all of the text in the student's IEP in English is accurately translated into the target language in written form. The IEP translated into the target language must be a comparable rendition of the IEP in English and not a partial translation or summary of the IEP in English. An audio recording of the student's IEP translated into Spanish or the parent's native language means that all of the content in the student's IEP in English is orally translated into the target language and recorded with an audio device. Uplift Education is not prohibited from providing the parent with an audio recording of an ARD committee meeting at which the parent was assisted by an interpreter as long as the audio recording provided to the parent contains an oral translation into the target language of all of the content in the student's IEP in English. If a parent's native language is not a written language, Uplift Education must take steps to ensure that the student's IEP is translated orally or by other means to the parent in his or her native language or other mode of communication.

19 TAC 89.1050(i)

COLLABORATIVE PROCESS

All members of the ARD committee shall have the opportunity to participate in a collaborative manner in developing the IEP. Decisions concerning the required elements of the IEP shall be made by mutual agreement of the required members, if possible. The ARD committee may agree to an annual IEP or an IEP of shorter duration.

19 TAC 89.1055(p).

a) *Recess*

When mutual agreement about all required elements of the IEP is not achieved, the parent or adult student who disagrees must be offered a single opportunity to recess and reconvene the ARD committee meeting. The period of time for reconvening the ARD committee meeting must not exceed ten (10) school days, unless the parties mutually agree otherwise. The ARD committee must schedule the reconvened meeting at a mutually agreed upon time and place. This recess is not required when:

1. the student's presence on campus represents a danger of physical harm to the student or others;
2. when the student has committed an expellable offense; or
3. when the student has committed an offense that may lead to placement in a disciplinary alternative education program.

These requirements do not prohibit the members of the ARD committee from recessing an ARD committee meeting for reasons other than failure of the parents and Uplift Education to reach agreement about all required elements of an IEP.

During the recess, the ARD committee members shall consider alternatives, gather additional data, prepare further documentation, and/or obtain additional resource persons who may assist in enabling the ARD committee to reach agreement.

When an ARD committee agrees to recess and reconvene due to a lack of mutual agreement about one or more required IEP elements, the parent or Uplift Education may request an independent facilitator from the Texas Education Agency in accordance with 19 TAC 89.1197 and TEC 29.020.

b) *No Agreement Reached*

If, after the ten-day recess, the ARD committee still cannot reach agreement, Uplift Education shall implement the IEP that it has determined to be appropriate for the student. Each ARD committee member who disagrees with the IEP is entitled to include a statement of disagreement in the IEP.

Tex. Educ. Code § 29.005(c); 19 TAC 89.1050(g).

When Uplift Education implements an IEP with which the parents or an adult student disagree, it shall provide prior written notice in compliance with applicable regulations and Uplift Education policy.

19 TAC 89.1050.

IEP MODIFICATION

After a student's annual ARD committee meeting, changes to an IEP may be made either by the entire ARD committee in a revision ARD or by amending the IEP by agreement, rather than redrafting the entire IEP.

To amend the IEP by agreement without holding an ARD meeting, the parent and Uplift Education must agree to not convene an ARD committee meeting to amend the IEP and Uplift Education must develop a written document to amend or modify the IEP for the parent's signature. Upon request, a parent shall be provided with a revised

copy of the IEP with amendments incorporated. Decisions regarding eligibility, changes of placement, and manifestation determination reviews may not be conducted through the amendment process.

34 CFR 300.324(a)(4),(6).

To the extent possible, Uplift Education shall encourage the consolidation of reevaluation meetings for the child and other ARD committee meetings for the child.

20 U.S.C. 1414(d)(3)(D)–(F); 34 CFR 300.324(a)(4)–(a)(6).

SECTION 12: PLACEMENT IN A RESIDENTIAL FACILITY

It is the policy of Uplift Education to serve students attending a residential facility when the educational services at the residential facility are operated by Uplift Education or if a student's admission review and dismissal (ARD) committee places a student in a residential facility.

Uplift Education may contract with a TEA approved residential facility to provide some or all of the special education services listed in the contracted child's individualized education program (IEP) and will comply with the use of funds for contract services.

19 TAC 89.1115(d).

EXCHANGE OF RECORDS

When a student is placed in a residential facility other than a juvenile pre-adjudication secure detention facility or a post adjudication secure correctional facility, Uplift Education will request the student records from the facility. The records requested will include:

1. Special education records, including those related to eligibility and services;
2. Behavioral intervention plans;
3. School related disciplinary actions;
4. Other documents related to the student's educational needs;
5. Behavioral history information about the child that is not confidential;
6. Records of conviction, probation, community supervision, or parole status as provided to the facility by a law enforcement agency, local juvenile probation, or juvenile parole office, if the information is needed to provide educational services to the child.

Uplift Education is required to share with the residential facility all appropriate records and relevant information relating to the child with a disability within a reasonable amount of time, and as permitted by applicable state and federal laws and regulations. Information that will be shared, includes:

- Identifying documents of the students age;
- Medical history and medical records, including current immunization records and a history of infectious disease;
- Vision and hearing screening and evaluation;
- Social history;
- Evaluation reports including psychological, educational, related service, assistive technology and vocational evaluations, and behavior assessments;
- Treatment plan of care or service;
- Educational placement history
- Relevant court orders
- Information related to the student's movement from a residential facility to a subsequent residence; and
- Contact information for the individuals representing the residential facility and Uplift.

19 TAC 89.1115(d).

PLACEMENT AND STAFFING

The ARD committee will determine the appropriate educational placement for a student residing in a residential treatment facility. The ARD committee will consider:

1. All available information;
2. The non-educational needs of the student that may restrict the ability of the school to serve the student on an Uplift campus;
3. Other non-educational needs, including the student's health and safety, and/or the child's placement in a residential treatment program.

All determinations by the ARD committee will be individualized based on the student's needs. Placement determinations will not be based on the student's disability or residence in a residential facility. The student's placement decision may not be based on what is most convenient for the school or the residential facility.

19 TAC 89.1115(d).

COORDINATION OF IEP AND TREATMENT

If a student requires educational services at the residential facility, the ARD committee will consider appropriate educational space as follows:

1. Whether space available at the residential facility is appropriate for the provision of FAPE based on the student's individual needs and the space available at the residential facility; or
2. If the ARD committee or residential facility determines that the residential facility does not have space, the ARD committee will identify an alternative location to provide educational services.

Uplift will coordinate with the residential facility regarding the student's IEP and services. Uplift and the residential facility must agree in writing to the staffing levels that will be maintained by Uplift and the residential facility to ensure student and teacher safety.

19 TAC 89.1115(d).

DISPUTES

Resolution of disputes concerning placement in a residential facility shall first be attempted at the local level. The specific issues involved in the dispute and possible solutions shall be identified and referred to Uplift personnel authorized to make decisions necessary to resolve the dispute. If resolution is not reached after a reasonable period of time (not to exceed 45 calendar days unless the disputing entities agree otherwise), either party may refer the dispute to TEA for further negotiations toward a mutually agreeable resolution. In referring the dispute, Uplift shall identify the nature of the dispute, any resolutions agreed upon, the issues that remain unresolved, and the contact persons representing the disputing entities.

19 TAC 89.1115(d).

SECTION 13: TRANSITION SERVICES

TRANSITION SERVICES

Transition services are the coordinated set of activities for a student with a disability that is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the student with a disability to facilitate the student's movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.

Transition services are based on the individual student's needs, taking into account the student's strengths, preferences, and interests; and includes instruction, related services; community experiences; the development of employment and other post-school adult living objectives; and the acquisition of daily living skills and provision of a functional vocational evaluation, if appropriate. Transition services may be special education, if provided as specially designed instruction, or a related service, if required to assist the student with a disability to benefit from special education.

20 U.S.C. 1401(34); 34 CFR 300.43.

TRANSITION PLANNING

Transition planning is done by the ARD Committee and must include the input of the student. If the student does not attend the ARD Committee meeting, Uplift personnel must take other steps to ensure the student's preferences and interests are considered during the transition planning.

Not later than the first IEP to be in effect when the student turns 14, the ARD Committee must annually consider and, if appropriate, address the following in the student's IEP during transition planning:

- appropriate student involvement in the student's transition to life outside of the public school system;
- appropriate involvement in the student's transition by the student's parent and other persons invited to participate by the parent or Uplift Education;
- appropriate postsecondary education options, including preparation for postsecondary-level coursework;
- appropriate functional vocational evaluation;
- appropriate circumstances for facilitating a referral of a student or the student's parent to a governmental agency for services or public benefits, including a referral to place a student on a waiting list for public benefits available to the student such as a waiver program; and
- the use and availability of appropriate supplementary aids, services, curricula, and other opportunities to assist the student in developing decision-making skills and supports and services to foster the student's independence and self-determination, including a supported decision-making agreement.

Beginning not later than the first IEP to be in effect when the student turns 14 years of age, or younger if determined appropriate by the ARD committee, the IEP must include:

1. appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and

2. the transition services, including courses of study, needed to assist the student in reaching the postsecondary goals.

Tex. Educ. Code 29.011(a); 19 TAC 89.1055(k),(l),(m).

When determining the course of study, the ARD Committee must consider the student's graduation plan and postsecondary goals. In addition, Uplift Education shall ensure that students with disabilities have access to career and technical education (CTE) classes. When determining placement in a CTE class, the ARD Committee must consider the student's graduation plan, the content of the student's IEP, including the consideration of transition services, and classroom supports. If a participating agency fails to provide the transition services described in the student's IEP, the ARD Committee must identify alternative strategies to meet the transition objectives set out in the IEP.

19 TAC 75.1023; 34 CFR 300.324(c)(1).

TRANSITION AND EMPLOYMENT GUIDE

The Texas Education Agency is required to develop a transition and employment guide for students enrolled in special education programs and their parents to provide information on statewide services and programs that assist in the transition to life outside the public school system, the *Texas Transition and Employment Guide* (the "Guide"). Uplift Education must post the "Guide" on its website. The ARD Committee will provide written information and, if necessary, assistance to the student or parent regarding how to access the electronic version of the Guide at the first meeting of the student's ARD Committee at which transition is discussed and again at the first ARD Committee meeting at which transition is discussed that occurs after the date on which the Guide is updated. In addition, on request, Uplift Education will provide a printed copy of the Guide to the student or parent.

Tex. Educ. Code 29.0112(a), (e).

TRANSITION AND EMPLOYMENT DESIGNEE (TED)

Uplift Education must designate at least one employee to serve as Uplift's designee on transition and employment services for special education students. This person is Uplift's Transition and Employment Designee or TED. The TED is Uplift's primary contact for transition and employment services for students with disabilities. This employee must also be able to provide information and resources about effective transition planning and employment services to school staff, parents, and agency providers, including the following:

- Student involvement
- Parent involvement
- Adult Student Support
- Postsecondary Education
- Functional Vocational Evaluation
- Employment
- Age-Appropriate Instructional Environments
- Independent Living

- Referral to State Agency Services
- Self-Determination
- Supported Decision-Making Agreements

In addition, the TED must also help identify contacts at the following state agencies and ensure communication between local staff a regional or local staff at the following agencies:

- Health and Human Services Commission (HHSC)
- Texas Workforce Commission (TWC)
- Department of State Health Services (DSHS); and
- Department of Family and Protective Services (DFPS).

Tex. Educ. Code 29.011(b).

TEXAS DRIVING WITH DISABILITY PROGRAM INFORMATION

Uplift Education shall provide information about the Texas Driving with Disability Program to students who have a health condition or disability that may impede effective communication with a peace officer and who receive special education services under the IDEA; or who are covered by Section 504; and the parents of those students.

Information about the Texas Driving with Disability Program may be provided with any transition planning materials provided under Subchapter A, Chapter 29 of the Texas Education Code and shall be provided to each student who is 16 years of age or older and annually until the earlier of the student’s graduation from high school; or 21st birthday.

Tex. Educ. Code § 29.0113.

SECTION 14: GRADUATION

APPLICABILITY OF TITLE RELATING TO HIGH SCHOOL GRADUATION

Uplift is subject to a prohibition, restriction, or requirement, as applicable, imposed by Title 2 (Public Education) of the Texas Education Code (“TEC”), or a rule adopted under Title 2 (Public Education) of the TEC, relating to high school graduation under TEC Section 28.025.

Tex Educ. Code § 12.104(b)(2)(E).

PROVISION OF FAPE AND GRADUATION FOR SPECIAL EDUCATION STUDENTS

Except as specifically provided by law, graduation with a regular high school diploma terminates a student’s eligibility for special education and related services. Termination of eligibility based on graduation requires Uplift to complete a summary of performance in accordance with 34 CFR 300.305(e)(3), and prior written notice must also be provided.

34 CFR 300.102; 19 TAC 89.1035(a), 89.1070(a).

MODIFIED CURRICULUM AND MODIFIED CONTENT

For purposes of this policy and its related requirements, “modified curriculum” and “modified content” refer to any reduction in the amount or complexity of the required Texas Essential Knowledge and skills. Substitutions that are specifically authorized in statute or regulations must not be considered modified curriculum or modified content.

19 TAC 89.1070(k).

GRADUATION REQUIREMENTS UNDER THE FOUNDATION HIGH SCHOOL PROGRAM

A student with a disability who receives special education services without modified curriculum and who enters or entered ninth grade during or after the 2014-2015 school year may graduate and receive a regular high school diploma if the student satisfies the following criteria:

1. demonstrates mastery of the required states standards or Uplift’s standards if they are greater;
2. satisfactorily completes the credit requirements for graduation under the Foundation High School Program; and
3. achieves satisfactory performance on the required state assessments , unless the student’s ARD Committee has determined that satisfactory performance on the required state assessments is not necessary for graduation.

Tex. Educ. Code §§ 28.025, 28.0251, 28.0256, 29.005, 39.025; 19 TAC 74.12, 89.1070, 101.3023(a).

A student who receives special education services entering ninth grade in 2014-2015 or after who one or more of

his/her courses are modified may also graduate and earn a regular high school diploma if the student:

1. demonstrates mastery of the required states standards or Uplift Education's standards if they are greater;
2. satisfactorily completes the credit requirements for graduation under the Foundation High School Program through courses, one or more of which contain modified curriculum that is aligned to the standards applicable to general education;
3. achieves satisfactory performance on the required state assessments, unless the student's ARD committee has determined that satisfactory performance on the required state assessments is not necessary for graduation; and
4. successfully completes the student's IEP and meets one of the following conditions:
 - a. has obtained full-time employment and mastered sufficient self-help skills to enable the student to maintain employment without direct or ongoing educational support of Uplift Education;
 - b. has demonstrated mastery of specific employability skills and self-help skills that do not require ongoing educational support from Uplift Education;
 - c. be involved with an agency that can provide services that are no only the responsibility of of Uplift Education;; or
 - d. no longer meets age eligibility requirements.

Tex. Educ. Code § 28.025; 19 TAC 89.1035, 89.1070(b)(3).

ENDORSEMENTS UNDER THE FOUNDATION HIGH SCHOOL PROGRAM

A student receiving special education services may receive an endorsement if the student:

1. satisfactorily completes the requirements for graduation under the Foundation High School Program as well as the additional credit requirements in mathematics, science, and elective courses as specified in 19 TAC 74.13(e) with or without modified curriculum;
2. satisfactorily completes the courses required for the endorsement under 19 TAC 74.13(f) without any modified curriculum or with modification of the curriculum, provided that the curriculum, as modified, is sufficiently rigorous as determined by the student's ARD committee; and
3. performs satisfactorily as established in Texas Education Code Chapter 39, on the required end-of-course assessment instruments unless the student's ARD committee determines that satisfactory performance is not necessary.

Tex. Educ. Code § 28.025(c-7), (c-8); 19 TAC 89.1070(c).

A student who is in eleventh or twelfth grade and who has taken each of the required state assessments but failed to achieve satisfactorily on no more than two of the assessments, is eligible for an endorsement if the student meets the other endorsement requirements.

19 TAC 89.1070(d).

TRANSITIONING TO THE FOUNDATION HIGH SCHOOL PROGRAM

A student receiving special education services who entered ninth grade prior to the 2014-2015 school year may

graduate and be awarded a high school diploma under the Foundation High School Program, if the student's ARD committee determines the student should take courses under the Foundation High School Program and the student completes the requirements of that Program.

Tex. Educ. Code § 28.025(c)(1); 19 TAC 74.1021(a)(1), 89.1070(e).

A student transitioning to the Foundation High School Program may earn an endorsement if the student meets the requirements for an endorsement.

19 TAC 89.1070(c)-(e).

A student transitioning to the Foundation High School Program who is classified as in grade 11 or 12 who took each of the required assessments but failed to achieve satisfactorily on no more than two of the assessments may graduate if the student met all other applicable graduation requirements.

19 TAC 89.107(e), 101.3022(f)(1).

SUBSTITUTIONS UNDER THE FOUNDATION HIGH SCHOOL PROGRAM

a) *Language- Other-Than-English (“LOTE”)*

A student who, due to disability, is unable to complete two credits in the same language in a LOTE, as provided in Section 28.025(b-1)(5), may substitute for those credits:

1. Two credits in ELA, mathematics, science, or social studies; or
2. Two credits in career and technology education (“CTE”), technology applications, or other academic electives.

A credit allowed to be substituted under the above provisions may not also be used by the student to satisfy a graduation credit requirement other than credit for completion of a LOTE. The determination regarding a student's ability to participate in LOTE courses will be made by the student's ARD committee.

Tex. Educ. Code § 28.025(b-14)(1); 19 TAC 74.12(b)(5)(D)(i).

b) *Physical Education*

In accordance with State Board of Education (“SBOE”) rules, a student who is unable to participate in physical activity due to disability or illness is allowed to substitute for the physical education credit required under TEC 28.025(b-1)(8):

1. One credit in ELA, mathematics, science, or social studies;
2. One credit in a course that is offered for a credit as provided by TEC 28.002(g-1); or
3. One academic elective credit.

A credit allowed to be substituted for PE credit may not also be used by the student to satisfy any other graduation

requirement. The determination regarding a student's ability to participate in physical activity must be made by the student's ARD Committee.:

Tex. Educ. Code § 28.025(b-11),(b-14); 19 TAC 74.12(b)(6)(G)(i).

CERTIFICATES OF COURSEWORK COMPLETION

Uplift Education may issue a certificate of coursework completion to a student who successfully completes the curriculum requirements identified by the SBOE under Education Code Section 28.025(a) but who fails to comply with Section 39.025 (Secondary-Level Performance Required) relating to exit-level assessment requirements, as determined by the student's ARD Committee. It is Uplift Education discretion whether or not it allows a student who receives a certificate to participate in a graduation ceremony with students receiving high school diplomas.

Tex. Educ. Code 28.025(d).

CERTIFICATE OF ATTENDANCE

Uplift Education shall issue a Certificate of Attendance to a student who receives special education services under Subchapter A, Chapter 29 of the Texas Education Code and who has completed four years of high school but has not completed the student's IEP. Uplift Education shall allow a student who receives a certificate of attendance to participate in a graduation ceremony with students receiving high school diplomas. A student may participate in only one graduation ceremony. Receiving a Certificate of Attendance does not preclude a student from receiving a diploma if the student completes the IEP.

Tex. Educ. Code 28.025(f).

STUDENTS ELIGIBLE TO RETURN TO SCHOOL AFTER GRADUATION

A student who meets the age requirement for eligibility for continued services – i.e., who has not reached age 21 on September 1 of a school year – will be eligible for special education services and may return to school after graduation provided the student was awarded a diploma that satisfied the following conditions:

1. The student was required to successfully complete the student's individualized education program ("IEP"); and
2. The student was required to:
 - a. Obtain full-time employment, based on the student's abilities and local employment opportunities, in addition to mastering sufficient self-help skills to enable the student to maintain the employment without direct and ongoing educational support of Uplift Education;
 - b. demonstrate mastery of specific employability skills and self-help skills that do not require direct and ongoing educational support from Uplift Education; or
 - c. have access to services that are not within the legal responsibility of public education or employment or educational options for which the student has been prepared for by the academic program.

19 TAC 89.1070(b)(3)(A)-(C), (f)(4)(A)-C, (j).

Upon request of the student or parent to resume services, the ARD committee must determine the needed educational services.

19 TAC 89.1070(j).

PERSONAL GRADUATION PLAN FOR JUNIOR HIGH AND MIDDLE SCHOOL

Uplift Education will develop and implement a personal graduation plan for each student in junior high or middle school who has not performed satisfactorily on the STAAR or who is unlikely to receive a high school diploma before the fifth school year following the student's enrollment in the ninth grade.

The personal graduation plan will:

- Identify educational goals for the student;
- Include diagnostic information, appropriate monitoring and intervention, and other evaluation strategies;
- Include an intensive program of instruction;
- Address participation by the student's parent or guardian, including consideration of educational expectations for the student; and
- Provide innovative methods to promote the student's advancement, such as flexible scheduling, alternative learning environments, online instruction, and other interventions scientifically proven to improve learning and cognitive ability.

For students with disabilities who receive special education services through an IEP, the student's IEP will serve as the Personal Graduation Plan. *Tex. Educ. Code § 28.0212*.

PERSONAL GRADUATION PLAN FOR HIGH SCHOOL

Every high school student in Uplift Education will have a personal graduation plan. Uplift Education will publish in English and Spanish on the website the information provided by TEA that explains the benefits of choosing a high school graduation plan that includes the distinguished level of achievement under the Foundation High School Program and includes one or more endorsements to enable the student to achieve a class rank in the top 10 percent of students at the campus and encourages parents, to the greatest extent practicable, to have the student choose these options. This information must be available to all high school students and their parents in the language in which the parents are most proficient only if at least 20 students in a grade level speak that language.

Each high school principal must choose a school counselor or school administrator to discuss personal graduation plan options with each student entering ninth grade, along with the student's parent. This plan must be confirmed and signed by both the student and the student's parent before the end of the student's ninth grade school year.

A personal graduation plan for a student in high school must identify a course of study that promotes college and workforce readiness and career placement and advancement. The personal graduation plan must also help the student transition from secondary to postsecondary education, where applicable. Uplift Education will not prevent

the student and the student's parent or guardian from choosing a distinguished level of achievement or an endorsement. For students with disabilities who receive special education services through an IEP, the IEP may serve as the Personal Graduation Plan.

Tex. Educ. Code § 28.02121.

SUMMARY OF PERFORMANCE

A summary of performance ("SOP") generally refers to a summary of the student's academic achievement and functional performance, which includes recommendations on how to assist the student with a disability in meeting the student's postsecondary goals. An SOP is required for the student whose eligibility under special education terminates due to graduation from secondary school with a regular high school diploma or due to exceeding the age of eligibility for FAPE.

The SOP must consider the views of the parent, the views of the student, and written recommendations for adult service agencies (such as the Department of Assistive and Rehabilitative Services) on how to assist the student in meeting postsecondary goals.

An evaluation must be included as part of the SOP for students graduating based on:

- Completion of the credit requirements for graduation under the Foundation High School Program or the Minimum High School Program through courses, one or more of which contain modified curriculum;
- Satisfactory performance on required state assessments, unless the ARD Committee has determined that satisfactory performance on the assessments is not necessary for graduation; and
- Completion of the individualized education program.

34 CFR 300.305(e); 19 TAC 89.1070(g).

SECTION 15: PRIOR WRITTEN NOTICE

Uplift Education must provide Prior Written Notice to a parent before it:

- Proposes or refuses to initiate or change the identification of the student;
- Proposes or refuses to initiate or change the evaluation of the student;
- Proposes or refuses to initiate or change the educational placement of the student;
- Proposes or refuses to initiate or change the provision of a free appropriate public education (FAPE) to the student;
- Proposes to convene an ARD Committee meeting as part of the invitation to the admission review, and dismissal meeting;
- Implements an IEP with which the parent disagrees; or
- Ceases the provision of special education and related services due to the parent's revocation of consent for services.

19 TAC 89.1050(g); 34 CFR 300.503(a), 300.300(b)(4)(i).

HOW AND WHEN THE PRIOR WRITTEN NOTICE MUST BE PROVIDED

Uplift Education must provide the Prior Written Notice at least five school days before Uplift Education proposes or refuses the action, unless the parent agrees to a shorter timeframe.

34 CFR 300.503(a); 19 TAC 89.1050(g).

If the parent submits a written request to Uplift Education's Senior Director of Special Programs or to an Uplift Education administrative employee, such as a campus principal, for an initial evaluation of the parent's child for special education services, Uplift Education must, not later than the 15th school day after the date of receipt of the request, either:

- Provide the parent with Prior Written Notice of its proposal to conduct an evaluation, a copy of the Notice of Procedural Safeguards, a copy of the Overview of Special Education for Parents form created by TEA, and an opportunity to given written consent for the initial evaluation.
- Provide the parent with Prior Written Notice of its refusal to conduct an evaluation, a copy of the Notice of Procedural Safeguards, and a copy of the Overview of Special Education for Parents form created by TEA.

19 TAC 89.1011(b); 34 CFR 300.503(a), 300.504(a).

CONTENT OF THE PRIOR WRITTEN NOTICE

Uplift Education must include the following in the Prior Written Notice:

- A description of the action proposed by Uplift Education;

- An explanation of why Uplift Education proposes or refuses to take the action;
- A description of each evaluation procedure, assessment, record, or report Uplift Education used as a basis for the proposed or refused action;
- A description of other options that the ARD Committee considered and the reasons why those options were rejected;
- A description of any other factors that are relevant to Uplift Education's proposal or refusal;
- A statement that the parent has protection under the procedural safeguards of the IDEA, and if the notice is not an initial referral for evaluation, the means by which a copy of the Notice of Procedural Safeguards can be obtained; and
- Sources for the parents to contact to obtain assistance in understanding the IDEA;

If Uplift Education is proposing to conduct an evaluation, it must also include in the Prior Written Notice a description of any evaluation procedure it proposes to conduct.

34 CFR 300.503(b), 300.304(a).

LANGUAGE AND UNDERSTANDABILITY OF PRIOR WRITTEN NOTICE

Uplift Education must provide prior written notice in language understandable to the general public and in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. *34 CFR 300.503(c), 300.504(d)*. If the native language or other mode of communication of the parent is not a written language, Uplift Education must take steps to ensure that the notice is translated orally or by other means to the parent in the parent's native language or other mode of communication and that the parent understands the content of the notice. *34 CFR 300.503(c)(2)*. A parent of a child with a disability may elect to receive prior written notice by an electronic mail communication, if Uplift Education makes that option available.

34 CFR 300.505.

SECTION 16: CONSENT

Consent means that:

1. the parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;
2. the parent understands and agrees in writing to the activity for which his or her consent is sought;
3. the consent describes that activity and lists the records (if any) that will be released and to whom; and
4. the parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time.

A revocation of consent is not retroactive. Thus, it does not negate any action occurring after the consent was given, but before the consent was revoked.

34 CFR 300.9.

CONSENT FOR INITIAL EVALUATION

Before Uplift Education conducts an initial evaluation to determine whether a student is a student with a disability in need of special education or related services, it shall provide prior written notice, including a description of any evaluation Uplift Education proposes to conduct, and obtain informed written consent for the evaluation from the parent of the student or adult student who is being proposed for an evaluation.

20 U.S.C. 1414(a)(1)(D), (E); 34 CFR 300.304(a).

Uplift Education does not need to obtain informed consent from a parent if the student is a ward of the state and not residing with the parent and:

- Uplift Education cannot locate the parent of the student despite reasonable efforts to do so;
- The parent's rights have been terminated in accordance with state law; or
- A judge has removed the rights of the parent to make educational decisions on behalf of the student in accordance with state law, and the individual appointed by the judge to represent the student has provided consent for the initial evaluation.

34 CFR 300.300(a)(2).

Parental consent for an initial evaluation does not constitute consent for services.

34 CFR 300.300(a)(1)(ii).

If the parent of a child who is enrolled or seeking to be enrolled in Uplift Education does not provide consent for an initial evaluation or fails to respond to a request to provide consent, Uplift Education may, but is not required to, pursue the initial evaluation by utilizing the procedural safeguards, including the mediation or the due process hearing procedures, if appropriate. However, Uplift Education does not violate its obligation under the child find

duty if it declines to pursue the evaluation.

34 CFR 300.300(a)(3)(i), (ii).

CONSENT FOR REEVALUATION

Uplift Education must make reasonable efforts to obtain informed parental consent before conducting any reevaluation of a child with a disability. Parental consent for a reevaluation need not be obtained if Uplift Education can demonstrate that it has taken reasonable measures to obtain such consent, and the parent has failed to respond. *20 U.S.C. 1414(c)(3)*. When seeking written consent for a reevaluation, Uplift Education must also provide prior written notice of the District's proposal to conduct a reevaluation. *See Prior Written Notice provisions in Section 15.*

If a parent refuses to consent to the reevaluation, Uplift Education may, but is not required to, pursue the initial evaluation by utilizing the procedural safeguards, including the mediation or the due process hearing procedures, in order to obtain agreement or a ruling that the evaluation may be conducted. However, Uplift Education does not violate its obligation under the child find duty if it declines to pursue the evaluation.

34 CFR 300.300(c)(1), (c)(2); 300.300(d)(5); 300.322(d).

PSYCHOLOGICAL EXAMINATIONS AND TESTS

On request of a child's parent, before obtaining the parent's consent for the administration of any psychological examination or test to the child that is included as part of the evaluation of the child's need for special education, Uplift Education shall provide to the child's parent:

1. The name and type of the examination or test; and
2. An explanation of how the examination or test will be used to develop an appropriate Individualized Education Program ("IEP") for the child.

If Uplift Education determines that an additional examination or test is required for the evaluation of a child's need for special education after obtaining consent from the child's parent, Uplift Education shall provide the information above to the parent regarding the additional examination or test and shall obtain additional consent for the examination or test. If the parent does not give consent for the additional examination or test within 20 calendar days after the date Uplift Education provided to the parent the required information about the additional examination or test and its use, the parent's consent is considered denied.

Tex. Educ. Code 29.0041(a), (b), (c).

ACTIONS THAT DO NOT REQUIRE CONSENT.

Parental consent is not required before Uplift Education:

1. screens a student to determine strategies for implementing the curriculum;
2. reviews existing evaluation data (REED) as part of the student's evaluation or a reevaluation; or

3. gives the student a test or other evaluation that is given to all students unless, before that test or evaluation, consent is required from parents of all students.

34 CFR 300.300(d); 34 CFR 300.302.

CONSENT FOR SERVICES

Once a student has been identified as a student with a disability in need of special education services and the ARD Committee has developed the student's initial IEP, before initiating the provision of special education and related services, Uplift Education must provide the parent or adult student prior written notice of the ARD Committee's decisions regarding the services and obtain informed consent from the parent or adult student before providing special education and related services to the student.

20 U.S.C. 1414(a)(1)(D); 34 CFR 300.300(b)(1).

Uplift Education must make reasonable efforts to obtain informed consent for the initial provision of services.

34 CFR 300.300(b)(2), 300.300(d)(5), 300.322(d).

However, if the parent refuses to respond or refuses to consent to the initial provision of special education and related services, Uplift Education may not use mediation, due process procedures or any other procedural safeguards under the IDEA, in order to obtain agreement or a ruling that services may be provided to the child. Uplift Education will not be liable for failure to provide a free appropriate public education (FAPE) to the student where the student refuses to provide consent or fails to respond and is not required to convene an ARD Committee meeting to develop an IEP for the student.

34 CFR 300.300(b)(3).

Uplift Education must grant the parent's request to revoke consent for the continued provision of special education and related services, so long as the parent has revoked consent in writing. If the parent revokes consent for the continued provision of special education and related services at any time after the initial provision of services, Uplift Education must stop providing special education and related services to the student. However, Uplift Education must provide Prior Written Notice to the parent before discontinuing the provision of special education and related services. *See Prior Written Notice procedures above in Section 15.*

The Prior Written Notice must explain the change in the educational program that will result from the parent's revocation of services and give the parent the information and time to consider fully the ramifications of the revocation of consent.

34 CFR 300.300(b)(4).

If the parent revokes consent in writing for his or her child's receipt of services after the child is initially provided special education and related services, Uplift Education is not required to amend the child's education records to remove any references to the child's receipt of services because of the revocation of consent.

34 CFR 300.9(c)(3).

Revocation of consent is not retroactive and does not negate any action occurring after the consent was given but before the consent was revoked.

34 CFR 300.9(c)(2).

Once Uplift Education has properly discontinued the provision of special education and related services upon a parent's revocation of services, the child becomes a general education student. As a result, Uplift Education may place the student in accordance with the placement procedures of general education students. However, the fact that a parent revoked consent does not impact a parent's right to request subsequent evaluations for eligibility. Such a request will be treated as a request for an initial evaluation.

CONSENT TO EXCUSE MEMBER FROM ATTENDING ARD COMMITTEE MEETING

The IDEA dictates who must attend an ARD Committee meeting. With written agreement from the parent and Uplift Education, a member of the ARD Committee may not be required to attend a specific meeting if the member's area of curriculum or related services is not being modified or discussed in the meeting. Even where an ARD Committee member's area of curriculum or related services is being modified or discussed, the member may be excused from attending the meeting, in whole or in part, if the parent and Uplift Education consent to the excusal in writing and the member submits input into the development of the IEP in writing to the parent and the ARD Committee prior to the meeting. However, Uplift Education must obtain informed consent from the parent before excusing a required member from attending an ARD Committee meeting, in whole or in part.

34 CFR 300.321(e)(2)(i); 19 TAC 89.1050(c)(4).

These excusal and consent requirements do not apply to the following ARD Committee members: the parent, the student with a disability, an adult student following a transfer of rights, and/or a discretionary member (i.e. an individual not required by the IDEA to attend the ARD Committee meeting, but who has been invited at the discretion of the parent or the District as a person with relevant knowledge or special expertise regarding the student).

PARENTAL CONSENT TO ACCESS PUBLIC BENEFITS AND PRIVATE INSURANCE

With the written consent of the parent/adult student, Uplift Education may use Medicaid or other public benefits or insurance programs in which the student participates to provide or pay for services required under the IDEA, as allowed under the public benefits or insurance program. However, prior to accessing the child's or the parent's public benefits or insurance for the first time, and annually thereafter, Uplift Education must provide written notice to the parent regarding Uplift Education's access to the public benefits and the requirements of consent. Uplift Education may not refuse to provide special education services to an eligible student with a need simply because the parent refuses to consent to access the student's or parent's public insurance or benefits.

34 CFR 300.154(d)(2).

Uplift Education may access the parent's private insurance proceeds to pay for special education and related

services required to provide the student FAPE so long as Uplift Education obtains informed consent from the parent each time Uplift Education proposes to access the parent's private insurance proceeds.

34 CFR 300.154(e).

PARENTAL CONSENT FOR TRANSFER OF ASSISTIVE TECHNOLOGY DEVICES

When the child or adult student with a disability using an assistive technology device ("ATD") that Uplift Education has purchased for the student enrolls in another campus within Uplift Education or leaves Uplift Education altogether, Uplift Education may transfer the ATD to the school or LEA in which the student enrolls, a state agency that provides services to the student following graduation from high school, or to the student's parents or the adult student.

However, Uplift Education shall obtain informed consent from the parent or the adult student if the adult student has the legal capacity to enter into a contract before transferring an assistive technology device through a transfer agreement that incorporates the standards of the state. Uplift Education can transfer the ATDs without informed parental or adult student consent if Uplift Education can demonstrate that it has taken reasonable measures to obtain the consent and the parent or adult student has failed to respond.

19 TAC 89.1056(b); Education Code 30.0015(b), 30.0015(c)(3).

CONSENT FOR DISCLOSURE OF CONFIDENTIAL INFORMATION

A student's personally identifiable information is protected from disclosure under the Family Education Rights and Privacy Act ("FERPA"). Generally, Uplift Education must obtain informed consent from the parent before disclosing personally identifiable information to third parties, except in certain circumstances.

Circumstances when informed consent is required to disclose confidential information of a special education student include:

- When disclosure is to officials of agencies providing or paying for transition services;
- When Uplift Education invites a representative of a participating agency to join the ARD Committee if the agency is likely to be responsible for providing or paying for transition services; and
- If the child is enrolled or is going to enroll in a private school, when disclosure is to the school district where the private school is located.

34 CFR 300.622(a), (b).

SECTION 17: RESTRAINT AND TIME-OUT

BEHAVIOR MANAGEMENT TECHNIQUES

It is the policy of the state to treat all students with dignity and respect, including students with disabilities who receive special education services. Any behavior management technique and/or discipline management practice must be implemented in such a way as to protect the health and safety of the student and others. No discipline management practice may be calculated to inflict injury, cause harm, demean, or deprive the student of basic human necessities.

Tex. Educ. Code § 37.0021(a); 19 TAC 89.1053(a), (j).

CONFINEMENT

A student with a disability who receives special education services may not be confined in a locked box, locked closet, or other specially designed locked space as either a discipline management practice or a behavior management technique.

Tex. Educ. Code § 37.0021(a).

Texas Education Code 37.0021 does not prevent a student's locked, unattended confinement in an emergency situation while awaiting the arrival of law enforcement personnel if:

1. The student possesses a weapon; and
2. The confinement is necessary to prevent the student from causing bodily harm to the student or another person.

For these purposes, "weapon" includes any weapon described under Texas Education Code 37.007(a)(1).

Tex. Educ. Code §§ 37.0021(a); 37.0021(f), 37.007(a)(1); Penal Code 46.02, 46.05.

SECLUSION

An Uplift Education employee or volunteer or an independent contractor of Uplift Education may not place a student in seclusion. "Seclusion" means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that is designed solely to seclude a person; and contains less than 50 square feet of space.

Tex. Educ. Code § 37.0021(b)(2), (c).

RESTRAINT

An Uplift Education employee, volunteer, or independent contractor may use restraint only in an emergency and with the following limitations:

1. Restraint shall be limited to the use of such reasonable force as is necessary to address the emergency.
2. Restraint shall be discontinued at the point at which the emergency no longer exists.
3. Restraint shall be implemented in such a way as to protect the health and safety of the student and others.
4. Restraint shall not deprive the student of basic human necessities.

19 TAC 89.1053(c).

a) Definitions

“Restraint” means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of a student’s body.

Tex. Educ. Code § 37.0021(b)(1); 19 TAC 89.1053(b)(2).

“Restraint” does not include the use of:

1. Physical contact or appropriately prescribed adaptive equipment to promote normative body positioning and/or physical functioning;
2. Limited physical contact with a child to promote safety (*e.g.*, holding a student’s hand), to prevent a potentially harmful action (*e.g.*, running into the street), to teach a skill, or to provide comfort;
3. Limited physical contact or appropriately prescribed adaptive equipment to prevent a child from engaging in ongoing, repetitive self-injurious behaviors, with the expectation that instruction will be reflected in the IEP as required by 34 CFR 300.324(a)(2)(i) to promote student learning or reduce and/or prevent the need for ongoing intervention; or
4. Seat belts and other safety equipment used to secure children during transportation.

19 TAC 89.1053(f).

“Emergency” means a situation in which a student’s behavior poses a threat of:

1. Imminent, serious physical harm to the student or others; or
2. Imminent, serious property destruction.

19 TAC 89.1053(b)(1).

b) Training

Training for Uplift Education employees, volunteers, or independent contractors regarding the use of restraint shall be provided according to the following requirements:

1. A core team of personnel on each Uplift Education campus must be trained in the use of restraint, and the team must include a campus administrator or designee and any general or special education personnel likely to use restraint.

2. Personnel called upon to use restraint in an emergency and who have not received prior training must receive training within 30 school days following the use of restraint.
3. Training on use of restraint must include prevention and de-escalation techniques and provide alternatives to the use of restraint.
4. All trained personnel must receive instruction in current professionally accepted practices and standards regarding behavior management and the use of restraint.

Tex. Educ. Code § 37.0021(d); 19 TAC 89.1053(d).

c) *Data Reporting*

Cumulative data regarding the use of restraint must be electronically reported through the Public Education Information Management System in accordance with reporting standards specified by the Texas Education Agency.

19 TAC 89.1053, (k).

d) *Documentation*

In a case in which restraint is used, Uplift Education employees, volunteers, or independent contractors must implement the following documentation requirements:

1. On the day restraint is utilized, the campus administrator or designee must be notified verbally or in writing regarding the use of restraint.
2. On the day restraint is utilized, a good faith effort must be made to verbally notify the parent(s) regarding the use of restraint.
3. Written notification of the use of restraint must be placed in the mail or otherwise provided to the parent within one school day of the use of restraint.
4. Written documentation regarding the use of restraint must be placed in the student's special education eligibility folder in a timely manner so the information is available to the ARD committee when it considers the impact of the student's behavior on the student's learning and/or the creation or revision of a behavior improvement plan or a behavioral intervention plan. In addition, the information in the student's eligibility folder must include a copy of the written notification provided to the parent; information on the method by which the written notification was sent to the parent; and the contact information for the parent to whom the district sent the notification.

19 TAC 89.1053(e)(1)-(4)

e) *Written notification to the parent*

Written notification must be provided to the student's parent(s) or person standing in parental relation to the student for each use of restraint, and documentation of each restraint must be placed in the student's special education eligibility folder. The written notification of each restraint must include the following:

1. name of the student;
2. name of the individual administering the restraint;
3. date of the restraint and the time the restraint began and ended;
4. location of the restraint;
5. nature of the restraint;
6. a description of the activity in which the student was engaged immediately preceding the use of restraint;
7. the behavior of the student that prompted the restraint;
8. the efforts made to de-escalate the situation and any alternatives to restraint that were attempted;
9. observation of the student at the end of the restraint;
10. information documenting parent contact and notification; and
11. one of the following:
 - a. if the student has a behavior improvement plan or behavioral intervention plan, whether the behavior improvement plan or behavioral intervention plan may need to be revised as a result of the behavior that led to the restraint and, if so, identification of the staff member responsible for scheduling an ARD committee meeting to discuss any potential revisions; or
 - b. if the student does not have a behavior improvement plan or a behavioral intervention plan, information on the procedure for the student's parent or person standing in parental relation to the student to request an ARD committee meeting to discuss the possibility of conducting a functional behavioral assessment of the student and developing a plan for the student.

19 TAC 89.1053(e)(5)

TIME-OUT

An Uplift Education employee, volunteer, or independent contractor may use time-out with the following limitations:

1. Physical force or threat of physical force shall not be used to place a student in time-out;
2. Time-out must only be used in conjunction with an array of positive behavior intervention strategies and techniques and must be included in the student's individualized education program ("IEP") and/or behavior intervention plan ("BIP") if it is utilized on a recurrent basis to increase or decrease a targeted behavior; and
3. Use of time-out shall not be implemented in a fashion that precludes the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.

19 TAC 89.1053(b)(3), (g).

"Time-out" means a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:

1. That is not locked; and
2. From which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.

Tex. Educ. Code § 37.0021(b)(3); 19 TAC 89.1053(b)(3).

a) Training

Training for Uplift Education employees, volunteers, or independent contractors regarding the use of time-out shall be provided according to the following requirements:).

1. General or special education personnel who implement time-out based on requirements established in a student's IEP and/or BIP must be trained in the use of time-out.
2. Newly identified personnel called upon to implement time-out based on requirements established in a student's IEP and/or BIP must receive training in the use of time-out within 30 school days of being assigned the responsibility for implementing time-out.
3. Training on the use of time-out must be provided as part of a program which addresses a full continuum of positive behavioral intervention strategies, and must address the impact of time-out on the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.
4. All trained personnel must receive instruction in current professionally accepted practices and standards regarding behavior management and the use of time-out.

19 TAC 89.1053(h)

b) Documentation

Necessary documentation or data collection regarding the use of time-out, if any, must be addressed in the IEP or BIP. If a student has a BIP, Uplift Education personnel must document each use of time-out prompted by a behavior of the student specified in the student's BIP, including a description of the behavior that prompted the time-out. The ARD committee must use any collected data to judge the effectiveness of the intervention and provide a basis for making determinations regarding its continued use.

19 TAC 89.1053(i).

PEACE OFFICERS

Texas Education Code 37.0021 (regarding use of confinement, seclusion, restraint, and time out) and any rules or procedures adopted under this section apply to a peace officer only if the peace officer:

1. is employed or commissioned by Uplift Education; or
2. provides, as a school resource officer, a regular police presence on an Uplift Education campus under a memorandum of understanding between Uplift Education and a local law enforcement agency.

Tex. Educ. Code § 37.0021(h)

Texas Education Code 37.0021 (regarding use of confinement, seclusion, restraint, and time-out) does not apply to:

1. A peace officer, while performing law enforcement duties, except that Uplift Education shall report electronically to the Texas Education Agency, in accordance with standards provided by commissioner rule, information relating to the use of restraint by a peace officer performing law enforcement duties on school property or during a school-sponsored or school-related activity;
2. Juvenile probation, detention, or corrections personnel; or
3. An educational services provider with whom a student is placed by a judicial authority unless the services are provided in an Uplift Education educational program.

Tex. Educ. Code § 37.0021(g) and (i).

A peace officer performing law enforcement duties or school security personnel performing security-related duties on school property or at a school-sponsored or school-related activity may not restrain or use a chemical irritant spray or Taser on a student enrolled in fifth grade or below unless the student poses a serious risk of harm to the student or another person.

Tex. Educ. Code § 37.0021(j).

“Law enforcement duties” means activities of a peace officer relating to the investigation and enforcement of state criminal laws and other duties authorized by the Code of Criminal Procedure.

“Taser” means a device manufactured, sold, or distributed by Taser International, Incorporated, that is intended, designed, made, or adapted to incapacitate a person by inflicting an electrical charge through the emissions of a projectile or conductive stream. The term, for purposes of this law, includes a similar device manufactured, sold, or distributed by another person.

Tex. Educ. Code § 27.0021(b)(4) and (5).

SECTION 18: DISCIPLINE OF STUDENTS WITH DISABILITIES UNDER IDEA

STUDENTS WITH DISABILITIES UNDER SECTION 504

Uplift Education shall conduct an evaluation in accordance with 34 C.F.R. 104.35(b) before taking any action with respect to any significant change in placement of a student with a disability who needs or is believed to need special education and related services.

34 CFR 104.35(a).

Uplift Education may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any student with a disability who is currently engaging in the illegal use of drugs or alcohol to the same extent that Uplift Education would take disciplinary action against nondisabled students. The due process procedures afforded under Section 504 do not apply to such disciplinary action.

29 U.S.C. 705(20)(C)(iv).

SPECIAL EDUCATION STUDENTS

All disciplinary actions regarding students with disabilities who receive special education services under the IDEA must be determined in accordance with federal and state laws and regulation, including the procedures for use of restraint and time-out.

Except as set forth below, 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 (“ARD”) committee. 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 ARD committee conducts a manifestation determination review in accordance with federal law. Any disciplinary action shall be determined in accordance with federal and state law and regulations, including those requiring the provision of:

- functional behavioral assessments (“FBAs”);
- positive behavioral interventions, strategies, and supports;
- behavioral intervention plans/behavior improvement plans (“BIPs”); and
- the manifestation determination review (“MDR”).

Tex. Educ. Code § 37.004(a) - (b).

REMOVAL FOR TEN DAYS OR LESS

A student with a disability who violates the Uplift Education Student Code of Conduct may be moved from his or her current placement to an appropriate interim alternative educational setting, another setting, or suspension, for not more than ten consecutive school days, to the extent those alternatives are applied to children without

disabilities.

20 U.S.C. 1415(k)(1)(B); 34 C.F.R. 300.530(b)(1).

Services During Removal for Ten Days or Less: Uplift Education is required to provide services during the period of removal if Uplift Education provides services to a child without disabilities who is similarly removed.

34 C.F.R. 300.530(d).

SUBSEQUENT REMOVALS OF TEN DAYS OR LESS

Uplift Education personnel may remove the student for additional removals of not more than ten consecutive school days in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change in placement under 34 CFR 300.536.

34 C.F.R. 300.530(b)(1).

Services During Subsequent Removals of Ten Days or Less: After a student has been removed from his or her current placement for ten school days in the same school year, during any subsequent removal of ten consecutive school days or less, school personnel, in consultation with at least one of the student's teachers, shall determine the extent to which services are needed so as to enable the 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 student's individualized education program ("IEP").

20 U.S.C. 1415(k)(1)(D); 34 C.F.R. 300.530(d)(4).

Not later than the date on which the decision to take the disciplinary action is made, Uplift Education shall notify the student's parents of the decision and of all procedural safeguards.

20 U.S.C. 1415(k)(1)(H).

REMOVALS THAT ARE A CHANGE IN PLACEMENT

Any disciplinary action that would constitute a change in placement may be taken only after the student's ARD committee conducts an MDR.

For purposes of disciplinary removal of a student with a disability, a change in placement occurs if a student is:

1. Removed from the student's current educational placement for more than ten consecutive school days; or
2. Subjected to a series of removals that constitute a pattern because:
 - a. The series of removals total more than ten school days in a school year;
 - b. The student's behavior is substantially similar to the student's behavior in the previous incidents that resulted in the series of removals; and

- c. Additional factors exist, such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another.

Uplift Education determines, on a case-by-case basis, whether a pattern of removals constitutes a change in placement. Uplift Education's determination is subject to review through due process and judicial proceedings.

34 C.F.R. 300.536.

Uplift Education personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a student who violates the Student Code of Conduct.

20 U.S.C. 1415(k)(1)(A).

If Uplift Education takes a disciplinary action regarding a student with a disability who receives special education services that constitutes a change of placement under federal law, Uplift Education shall not later than the 10th school day after the change in placement:

- (1) seek consent from the student's parent or adult student to conduct a functional behavioral assessment (FBA) of the student, if a FBA has never been conducted on the student or the student's most recent FBA is more than one year old; and review any previously conducted FBA of the student and any BIP developed for the student based on that assessment; and
- (2) as necessary, develop a BIP for the student if the student does not have a plan, or if the student has a BIP, revise the student's plan.

Tex. Educ. Code § 37.004(b-1); 19 TAC 89.1050(k)

MANIFESTATION DETERMINATION FOR CHANGE OF PLACEMENTS

Within ten school days of any decision to change the placement of a student because of a violation of the Student Code of Conduct, Uplift Education, parents, and relevant members of the ARD committee (as determined by the parent and Uplift Education) shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents to determine whether the conduct in question was:

- Caused by, or had a direct and substantial relationship to, the student's disability; or
- The direct result of Uplift Education's failure to implement the IEP.

If Uplift Education, the parent, and relevant members of the ARD committee determine that either of the above is applicable, the conduct shall be determined to be a manifestation of the student's disability. If Uplift Education, the parent, and relevant members of the ARD committee determine the conduct was the direct result of Uplift Education's failure to implement the IEP, Uplift Education will take immediate steps to remedy those deficiencies.

20 U.S.C. 1415(k)(1)(E); 34 C.F.R. 300.530(e).

a) *Not a Manifestation*

If the determination is that the student's behavior was not a manifestation of the student's disability, school personnel may apply the relevant disciplinary procedures to the student in the same manner and for the same duration as for students without disabilities. The ARD committee shall determine the interim alternative educational setting.

20 U.S.C. 1415(k)(1)(C), (k)(2); 34 C.F.R. 300.530(c).

Services During Removal When Not a Manifestation:

The student must:

1. Continue to receive educational services so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals in the student's IEP; and
2. Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

These services may be provided in an interim alternative educational setting.

20 USC 1415(k)(1)(D); 34 C.F.R. 300.530(d)(1)–(2).

b) *Manifestation*

If Uplift Education, the parents, and relevant members of the ARD committee determine that the conduct was a manifestation of the student's disability, the ARD committee shall:

1. Conduct an FBA, and implement a BIP for the student, unless Uplift Education had conducted an FBA before the behavior that resulted in the change in placement occurred; or
2. If a BIP has already been developed, review the BIP and modify it, as necessary, to address the behavior.

Except as provided at SPECIAL CIRCUMSTANCES Section 6 below, the ARD committee shall return the student to the placement from which the student was removed, unless the parent, and Uplift Education agree to a change in educational placement as part of the modification of the BIP.

20 U.S.C. 1415(k)(1)(F); 34 C.F.R. 300.530(f).

SPECIAL CIRCUMSTANCES

Uplift Education personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability, if the student:

1. Carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of Texas Education Agency (the “TEA”) or Uplift Education; or
2. Knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of the TEA or Uplift Education;
3. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the TEA or Uplift Education.

20 U.S.C. 1415(k)(1)(G); 34 C.F.R. 300.530(g).

The ARD committee shall determine the interim alternative education setting.

20 U.S.C. 1415(k)(2).

a) *Services During Removal for Special Circumstances*

The student must:

1. Continue to receive educational services so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals in the student’s IEP.
2. Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

These services may be provided in an interim alternative educational setting.

34 C.F.R. 300.530(d)(1).

APPEALS

A parent who disagrees with a placement decision or the manifestation determination may request a hearing. Additionally, Uplift Education may request a hearing if it believes that maintaining a current placement of a student is substantially likely to result in injury to the student or others.

20 U.S.C. 1415(k)(3)(A); 34 C.F.R. 300.532(a); 19 TAC 89.1151.

When an appeal has been requested by a parent or Uplift Education, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the student’s assignment to the alternative setting, whichever occurs first, unless the parent and Uplift Education agree otherwise.

20 U.S.C. 1415(k)(4); 34 C.F.R. 300.533.

REPORTING CRIMES

Federal law does not prohibit Uplift Education from reporting a crime committed by a student with a disability to appropriate authorities. If Uplift Education reports a crime, Uplift Education shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom Uplift Education reported the crime. Uplift Education may transmit records only to the extent permitted by the Family Educational Rights and Privacy Act (“FERPA”).

20 U.S.C. 1415(k)(6); 34 C.F.R. 300.535.

STUDENTS NOT YET IDENTIFIED

A student who has not been determined to be eligible for special education and related services and who has engaged in behavior that violated the Student Code of Conduct may assert any of the protections provided for in the Individuals with Disabilities Education Act, including the provision of the Manifestation Determination Review provisions, if Uplift Education had knowledge that the student had a disability before the behavior that precipitated that disciplinary action occurred.

20 U.S.C. 1415(k)(5)(A); 34 C.F.R. 300.534(a).

a) *School Knowledge*

Uplift Education shall be deemed to have knowledge that a student has a disability if, before the behavior that precipitated the disciplinary action occurred:

1. The parent of the student expressed concern in writing to Uplift Education supervisory or administrative personnel, or to the teacher of the student, that the student was in need of special education and related services;
2. The parent requested an evaluation of the student for special education and related services; or
3. The student’s teacher, or other Uplift Education personnel, expressed specific concerns about a pattern of behavior demonstrated by the student directly to the special education director or to other Uplift Education supervisory personnel.

20 U.S.C. 1415(k)(5)(B); 34 C.F.R. 300.534(b).

b) *Exceptions*

Uplift Education shall not be deemed to have knowledge that the student had a disability if:

1. The parent has not allowed an evaluation of the student;
2. The parent has refused services; or
3. The student has been evaluated and it was determined that the student did not have a disability.

20 U.S.C. 1415(k)(5)(C); 34 C.F.R. 300.534(c).

If Uplift Education does not have knowledge (as described above), before taking disciplinary measures, that a student has a disability, the student may be subjected to the same disciplinary measures applied to students without disabilities who engaged in comparable behaviors.

However, if a request is made for an evaluation during the time period in which the student is subjected to disciplinary measures, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

20 U.S.C. 1415(k)(5)(D); 34 C.F.R. 300.534(d).

SECTION 19: ADMINISTRATION

APPLICABILITY OF TEXAS EDUCATION CODE

An open-enrollment charter school is subject to a prohibition, restriction, or requirement, as applicable, imposed by Title 2 (Public Education) of the Texas Education Code, or a rule adopted under Title 2 (Public Education) of the Texas Education Code relating to:

1. special education programs under Subchapter A, Chapter 29;
2. health and safety under Chapter 38 (including the provisions related to screening and treatment for dyslexia and related disorders;
3. reading instruments and accelerated reading instruction programs under Section 28.006;
4. accelerated instruction under Section 28.0211; and
5. a parent's right to information regarding the provision of assistance for learning difficulties to the parent's child as provided by Section 26.004(b)(11) and 26.0081(c) and (d).

Tex. Educ. Code § 12.104(b)(3)(C), (D), (F), (T).

Uplift Education shall comply with the requirements for monitoring compliance with federal and state laws relating to special education pursuant to Texas Education Code Section 29.010.

ASSURANCE

Open-enrollment charter schools must submit a plan to the Texas Education Agency that provides assurances that the charter school has in effect policies, procedures and programs that are consistent with the State and Federal policies and procedures governing special education.

20 U.S.C. 1413(a); 34 CFR 300.200-.201.

PUBLIC EDUCATION INFORMATION MANAGEMENT SYSTEM (PEIMS)

Most of the data TEA requests from school districts and charter schools are gathered using the Public Education Information Management System ("PEIMS"). PEIMS data are used for the Texas Academic Performance Reports ("TAPR"), Foundation School Program ("FSP"), statistical purposes, federal reporting, legislative requests, and audit purposes. Through PEIMS, schools report data including student demographic and academic performance, student attendance, personnel information, financial data, and organizational information." *Texas Open-Enrollment Charter School Handbook* (TEA, Division of Charter School Administration, September 2011).

An open-enrollment charter school is subject to a prohibition, restriction, or requirement, as applicable, imposed by Title 2 (Public Education) of the Texas Education Code, or a rule adopted under Title 2 (Public Education) of the Texas Education Code, relating to the PEIMS to the extent necessary to monitor compliance with Subchapter D (Open-Enrollment Charter School), Chapter 12, Texas Education Code.

Tex Educ. Code § 12.104(b)(3)(A).

The Superintendent or designee shall prepare required PEIMS submissions in accordance with PEIMS Data Standards and Module 10 of the Financial Accountability System Resource Guide. The Superintendent or designee may collaborate with the regional education service center in preparing and timely submitting PEIMS reports.

CONTRACTS FOR SERVICES; RESIDENTIAL PLACEMENT

Uplift Education may contract with a public or private facility, institution, or agency inside or outside of this State for the provision of services to students with disabilities. Each contract for residential placement must be approved by the Commissioner. The Commissioner may approve a residential placement contract only after at least a programmatic evaluation of personnel qualifications, adequacy of physical plant and equipment, and curriculum content. The Commissioner may approve either the whole or a part of a facility or program.

Tex. Educ. Code § 29.008(a).

When a student, including one for whom the State is managing conservator, is placed primarily for care or treatment reasons in a private residential facility that operates its own private education program, none of the costs may be paid from public education funds. If a residential placement primarily for care or treatment reasons involves a private residential facility in which the education program is provided by the open-enrollment charter school, the portion of the costs that includes appropriate education services, as determined by the student's ARD committee, shall be paid from State and Federal education funds.

Tex. Educ. Code § 29.008(c).

If Uplift Education contracts for the provision of education services rather than providing the services, Uplift Education shall oversee the implementation of the student's individualized education program ("IEP") and shall annually reevaluate the appropriateness of the arrangement. An approved facility, institution, or agency with whom Uplift Education contracts shall periodically report to Uplift Education on the services the student has received or will receive in accordance with the contract as well as diagnostic or other evaluative information that Uplift Education requires in order to fulfill its obligations under Subchapter A (Special Education), Chapter 29, Texas Education Code.

Tex. Educ. Code § 29.008(d).

FACILITIES CONSTRUCTION AND ALTERATION

If the secretary of education determines that a program authorized under the IDEA Part B will be improved by permitting program funds to be used to acquire appropriate equipment, or to construct new facilities or alter existing facilities, the secretary is authorized to allow the use of funds for those purposes. *34 CFR 300.718(a)*. Any construction of new facilities or alteration of existing facilities with authorized Individuals with Disabilities Education Act ("IDEA") program funds must comply with the requirements of:

- Appendix A of Part 36 of Title 28, Code of Federal Regulations (commonly known as the *Americans with Disabilities Accessibility Guidelines for Buildings and Facilities*); and

- Appendix A of Subpart 101-19.6 of Title 41, Code of Federal Regulations (commonly known as the *Uniform Federal Accessibility Standards*).

34 CFR 300.718(b).

ADMINISTRATION OF EQUIPMENT

If the secretary of education determines that a program authorized under the IDEA Part B will be improved by permitting program funds to be used to acquire appropriate equipment, the secretary is authorized to allow the use of those funds for those purposes. *34 CFR 300.718(a)*. Uplift Education must ensure that assistive technology devices (ATDs) are made available to a student with a disability if required as part of the student’s special education, related services, or supplementary aids and services.

34 CFR 300.105(a).

“Equipment” includes machinery, utilities, and built-in equipment, and any necessary enclosures or structures to house such machinery, utilities or equipment; and all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published, and audio-visual instructional materials; telecommunications, sensory, and other technological aids and devices; and books, periodicals, documents, and other related materials.

34 CFR 300.14.

“Assistive technology device (ATD)” means any device, including equipment or a product system, that is used to increase, maintain, or improve functional capabilities of a child with a disability.

Tex. Educ. Code § 30.0015(a)(1).

The ARD committee must consider whether a student needs assistive technology devices (“ATDs”) as part of the student’s special education, related services, or supplementary aids and services. On a case-by-case basis, the use of school-purchased ATDs in the student’s home or in other settings is required if the student’s ARD committee determines that the student needs access to those devices in order to receive free appropriate public education.

34 CFR 300.105; 300.324(a)(2)(v); 20 USC 1414(d)(3)(B)(v)

Uplift Education may transfer an ATD in accordance with TEC 30.0015. Transfer means the process by which the LEA that has purchased the ATD may sell, lease, or loan the device for the continuing use by the child or adult student with a disability changing the school of attendance in the LEA or leaving the LEA. An ATD may only be transferred to the school or LEA in which the child or adult student enrolls; a state agency that provides services to the child or adult student following graduation from high school; or the child’s parents or the adult student, if the adult student has the legal capacity to enter into a contract.

The transfer agreement must include the standards in TEC 30.0015, including the following:

- 1) The transferor and transferee must represent and agree that the terms of the transfer are based on the fair market value of the ATD, determined in accordance with generally accepted accounting principles.
- 2) The informed consent of the parent of the student with a disability, or the adult student, for whom the ATD is being transferred must be obtained before the transfer of an ATD pursuant to TEC 30.0015. The procedures employed by Uplift Education in obtaining informed consent shall be consistent with the procedures employed by the school to obtain parental consent under 34 CFR 300.300. Consistent with 34 CFR 300.505(c), informed parental or adult student consent need not be obtained if the school can demonstrate that it has taken reasonable measures to obtain that consent, and the student's parent or the adult student has failed to respond. To meet the reasonable measures requirement, the school must use procedures consistent with those described in 34 CFR 300.322(d).
- 3) If the transfer is a sale, then the sale of the ATD shall be evidenced by a "Uniform Transfer Agreement" which includes the following:
 - a. the names of the transferor and the transferee (which may be any individual or entity identified in TEC 30.0015(b));
 - b. the date of the transfer;
 - c. a description of the ATD being transferred;
 - d. the terms of the transfer (including the transfer of warranties, to the extent applicable); and
 - e. the signatures of authorized representatives of both transferor and transferee.

Nothing in the above requirements alters any existing obligation under federal or state law to provide ATDs to children with disabilities; requires Uplift Education to transfer an ATE to any person or entity; limits Uplift Education's right to sell, lease, loan or otherwise convey or dispose of property as authorized by federal or state laws, rules, or regulations; or authorizes any transfer of an ATD that is inconsistent with any restriction or transferability imposed by the manufacturer or developer of the ATD or applicable federal or state laws, rules, or regulations.

19 TAC 89.1056; Tex. Educ. Code § 30.0015

SPECIAL EDUCATION AND RELATED SERVICE PERSONNEL

All special education and related service personnel must be certified, endorsed, or licensed in the areas of assignment. *19 TAC 89.1131(a); 34 CFR 300.156(a), (b)*. Uplift Education shall ensure that personnel standards for all individuals serving children with disabilities are met in accordance with the IDEA and its procedures. Uplift Education shall make an ongoing good-faith effort to recruit and hire appropriately and adequately certified and/or licensed personnel to provide a wide range of special education and related services to students with disabilities who are eligible for special education services. Special education staffing needs come from the individualized decisions made by the Admission Review and Dismissal ("ARD") committee.

(a) Special Education Teacher Qualifications

When used with respect to any public elementary school or secondary school special education teacher teaching at Uplift Education, qualified means that the teacher has obtained full state certification as a special education teacher, including alternative certification, or passed the state special education teacher licensing examination,

and holds a license to teach in the state as a special education teacher; has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and holds at least a bachelor's degree. *34 CFR 300.156(c)(1); 19 TAC 89.1131*. Uplift Education recognizes that both the Every Student Succeeds Act and the IDEA provide that charter school teachers must meet the requirements set forth in the State's public charter school law. *20 U.S.C. 6311(g)(2)(J); 20 U.S.C. 1401(10)(B)(i)*. In Texas, that means that the charter school special education teacher has the same certification, endorsement, and licensing requirements for special education providers as all other public schools.

(b) Alternative Certification

A teacher in an alternative certification program who is not yet fully certified may be considered to be qualified if the teacher is participating in an approved State Board of Education certification alternative route to special education certification program under which the teachers received high-quality professional development that is sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction, before and while teaching; participates in a program of intensive supervision that consists of structured guidance and regular ongoing support for teachers or a teacher mentoring program; assumes functions as a teacher only for a specified period of time not to exceed three years; and demonstrates satisfactory progress toward full certification as prescribed by the state. *34 CFR 300.156(c)(2)*.

(c) Assignment

Uplift Education may assign a teacher who holds a special education certificate or an endorsement to any level of basic special education instructional program serving students with disabilities ages 3 to 21, as allowed by certification, with the following exceptions:

- Individuals assigned to provide speech therapy instructional services must hold a valid Texas Education Agency certificate in speech and hearing therapy or speech and language therapy, or a valid state license as a speech/language pathologist;
- Teachers certified in educating students with visual impairments must be available to students with visual impairments, including deaf-blindness, through one of Uplift Education's instructional options, a shared services arrangement with other LEAs, or an education service center, and teachers assigned full-time or part-time to instruct children from birth to age two with visual impairments, including deaf-blindness, must be certified in the education of students with visual impairments;
- Teachers certified in educating students who are deaf or hard of hearing must be available to students who are deaf or hard of hearing, including a regional day school program for the deaf, or a shared service arrangement; and
- When the ARD Committee has specified in the student's IEP that a student requires specially designed instruction in physical education, physical education may be provided by those authorized under 19 Texas Administrative Code § 231.703 (relating to requirements for Teachers of Adaptive Physical Education) and the following personnel:
 - Special Education Instructional and Related Service Personnel who have the necessary skills and

knowledge (which must be documented by the District by in-service records, evidence of attendance at seminars or workshops, or college transcripts);

- Physical education teachers;
 - Occupational therapists;
 - Physical therapists; or
 - Occupational therapy assistants or physical therapist assistants working under supervision in accordance with the standards of their profession.
- A certified orientation and mobility specialist who is certified by the Academy for Certification of Vision Rehabilitation and Education Professionals must provide orientation and mobility instruction.

(d) Paraprofessional Personnel

All paraprofessional special education personnel employed by Uplift Education must be certified and working under the supervision of special education certified personnel. Paraprofessionals may be assigned to work with eligible students with disabilities, general education and special education teachers, and related service personnel. Paraprofessionals may also be assigned to assist students with special education transportation, serve as a job coach, or serve in support of community-based instruction. If the Paraprofessional Personnel are paid from state administrative funds, they may be assigned to special education clerical or administrative duties such as the Special Education Resource System, the Special Education Management System, or other special education clerical or administrative duties.

(e) Interpreters for the Deaf or Hard of Hearing

Interpreting services for students who are deaf or hard of hearing must be provided by an interpreter who is certified in the appropriate language modes, if certification in such modes is available. If certification is available, the interpreter must be a certified member of (or certified by) the Registry of Interpreters for the Deaf or the Texas Board for Evaluation of Interpreters

NOTICE TO PARENTS – QUALIFICATIONS

The Superintendent or designee shall provide to the parent or guardian of each student enrolled in Uplift Education written notice of the qualifications of each teacher employed by Uplift Education.

Tex. Educ. Code § 12.130.

In the event Uplift Education receives assistance under Title I, Part A of the Elementary and Secondary Education Act (“ESEA”), Uplift Education shall, at the beginning of each school year, notify the parents of each student attending a school receiving such funds that parents may request, and Uplift Education shall provide the parents on request (and in a timely manner), information regarding the professional qualifications of the student’s classroom teachers, including, at a minimum, the following:

1. Whether the teacher has met state qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction.

2. Whether the teacher is teaching under emergency or other provisional status through which state qualification or licensing criteria have been waived.
3. Whether the teacher is teaching in the field of discipline of the certification of the teacher.
4. Whether the child is provided services by paraprofessionals and, if so, their qualifications.

20 U.S.C. 6312(e)(1)(A).

Additionally, in the event Uplift Education receives assistance under Title I, Part A of the ESEA, Uplift Education shall also provide to each individual parent timely notice that the parent's child has been assigned, or has been taught for four or more consecutive weeks by, a teacher who does not meet applicable state certification standards or licensure requirements at the grade level and subject area in which the teacher has been assigned. *20 U.S.C. 6312(e)(1)(B)(ii).*

SECTION 20: RECORDS

EDUCATION RECORDS IN GENERAL

Student records shall be maintained for each student from the time the student is in attendance at Uplift Education until withdrawal or graduation from Uplift Education. These records shall move with the respective student from campus to campus. Records for students not in attendance and/or withdrawn students and graduates shall be retained for the period of time required by law. No permanent records may be destroyed without explicit written permission from the Superintendent.

MAINTENANCE OF ELIGIBILITY FOLDER

Uplift Education must maintain an eligibility folder for each student receiving special education services, in addition to the student's cumulative record. The eligibility folder must include, but need not be limited to: copies of referral data; documentation of notices and consents; evaluation reports and supporting data; admission, review, and dismissal (ARD) committee reports; and the student's individualized education programs (IEPs).

19 TAC 89.1075(a).

Additionally, the eligibility folder may contain reports of progress to parents/legal guardians of students with disabilities who receive Special Education, which are developed and recorded with at least the same frequency as those provided to any student in general education.

The eligibility folders are maintained according to the policies and procedures regarding confidentiality and are located in a locked file cabinet. A list of persons who have access to the files is attached to the file cabinet in public view and access logs are maintained in each student's eligibility folder as to the date, the person accessing the file and their position, and the reason for access.

ACCESS TO RECORDS UNDER THE IDEA

The IDEA grants parents the right to inspect and review all educational records with respect to the identification, evaluation, educational placement, and the provision of FAPE to the child. 34 CFR § 300.501(a). Uplift Education must permit parents to inspect and review any education records relating to their children that are collected, maintained, or used by the district under the IDEA. Uplift Education must comply with the request without unnecessary delay and before any meeting regarding an IEP, any due process hearing, or resolution session, and in no case more than 45 days after the request has been made.

34 CFR § 300.613(a).

The child's IEP must also be accessible to each regular education teacher, special education teacher, related services provider, and any other service provider who is responsible for implementing the IEP. Each teacher or service provider accessing child's IEP must be of his or her responsibilities regarding implementation of the IEP and the specific accommodations, modifications, and supports that must be provided for the student in accordance with the IEP.

34 CFR § 300.323(d).

Uplift Education shall develop a process to be used by a teacher who instructs a student with a disability in a regular classroom setting to request a review of the student's IEP and to provide input in the development of the student's IEP. Uplift Education is required to develop a process that provides for a timely response by Uplift Education to the teacher's request and provides for notification to the student's parent of that request.

Tex. Educ. Code § 29.001(11).

SECTION 21: PROCEDURAL SAFEGUARDS

PROCEDURAL SAFEGUARDS

Uplift Education shall establish and maintain procedures to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of a free appropriate public education (“FAPE”).

20 U.S.C. 1415(a)–(b).

These procedures shall include:

1. An opportunity for the parents to review all education records and to participate in meetings relating to the identification, evaluation, and educational placement of the child and the provision of FAPE to the child. *34 CFR 300.501.*
2. An opportunity for the parents to obtain an independent educational evaluation of the child. *34 CFR 300.502.*
3. Assignment of an individual to act as a surrogate for the parent when no parent can be identified, Uplift Education cannot locate the parents, or the child is a ward of the state. *34 CFR 300.519.*
4. Prior written notice to the parents whenever Uplift Education proposes to initiate or change, or 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.*
5. Procedures to allow parties to resolve disputes through a mediation process. *34 CFR 300.506.*
6. An opportunity for any party to file a due process complaint on any matter relating to the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child. *34 CFR 300.507.*
7. Procedures that require either party, or the attorney representing a party, to provide the other party a due process complaint (which shall remain confidential). *34 CFR 300.508.*

NOTICE OF PROCEDURAL SAFEGUARDS

Uplift Education shall provide a copy of the Notice of Procedural Safeguards developed by the Texas Education Agency once per year, except that a copy also shall be given to the parents:

1. Upon initial referral or parental request for evaluation;
2. Upon receipt of the first state complaint and upon receipt of the first due process complaint in a school year;
3. On the date of a decision to make a disciplinary removal that is a change in placement; and
4. Upon request by a parent.

Uplift Education may also place a current copy of the procedural safeguards notice on its Internet website.

DISPUTE RESOLUTION

The possible options for resolving disputes that arise between a parent and Uplift Education relating to the

identification, evaluation, or educational placement of or the provision of FAPE to a student with a disability include, but are not limited to:

- ARD committee meetings, including IEP facilitation if offered by Uplift Education, under 19 TAC 89.1196;
- Meetings or conferences with the student's teachers;
- Meetings or conferences, subject to Uplift Education policies, with the principal, special education director, Superintendent, or Board;
- Requesting state IEP facilitation in accordance with 19 TAC 89.1197 (relating to State Individualized Education Program Facilitation);
- Requesting mediation through the Texas Education Agency ("TEA") in accordance with 34 CFR 300.506;
- Filing a complaint with TEA in accordance with 34 CFR 300.153; or
- Requesting a due process hearing through TEA in accordance with 34 CFR 300.507-300.514.

19 TAC 89.1150.

DUE PROCESS COMPLAINT

Whenever a due process complaint has been received by Uplift Education, the parent shall have an opportunity for an impartial due process hearing, which shall be conducted by TEA.

a) *Time Limits*

A due process complaint must set forth an alleged violation that occurred not more than two years before the date the parent or Uplift Education knew or should have known about the alleged action that forms the basis of the complaint.

20 U.S.C. 1415(f)(1)(A); 19 TAC 89.1151(c)

The statute of limitations for the parent of a student to request an impartial due process hearing may be tolled if the parent is an active-duty member of the armed forces, the Commissioned Corps of the National Oceanic and Atmospheric Administration, or the Commissioned Corps of the United States Public Health Service; and 50 U.S.C. 3936 (statute of limitations for military service) applies to the parent.

19 TAC 89.1151(e).

b) *Exceptions*

These time limits shall not apply if the parent was prevented from requesting a hearing due to:

1. A specific misrepresentation by Uplift Education that it had resolved the problem forming the basis of the complaint; or

2. Uplift Education’s withholding of information from the parent that Uplift Education was required by the IDEA to provide.

20 U.S.C. 1415(f)(3)(D); 34 CFR 300.511(f); 19 TAC 89.1151(d).

c) “Stay Put”

During the pendency of any administrative or judicial proceeding regarding a due process complaint notice requesting a due process hearing, the child shall remain in the then-current educational placement unless Uplift Education and the parent agree otherwise. If the child is applying for initial admission to a public school, the child shall, with the consent of the parents, be placed in the public school program until all proceedings have been completed.

20 U.S.C. 1415(j); 34 CFR 300.518, 300.533.

When a due process hearing has been requested by a parent or Uplift Education concerning a disciplinary change of placement or manifestation determination, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the child’s assignment to the alternative setting, or the 45-day timeline, if applicable, whichever occurs first, unless the parent and Uplift Education agree otherwise.

20 U.S.C. 1415(k)(3)(A), 1415(k)(4)(A); 34 CFR 300.533.

d) Resolution Process

Within 15 calendar days of receiving notice of a parent’s due process complaint, and before initiating a due process hearing under 34 CFR 300.511, Uplift Education shall convene a meeting with the parent and the relevant member or members of the ARD committee. The purpose of the meeting is for the parent to discuss the due process complaint and the facts that form the basis of the due process complaint, so that Uplift Education has the opportunity to resolve the dispute. The meeting need not be held if the parent and Uplift Education agree in writing to waive the meeting, or the parent and Uplift Education agree to use the mediation process.

If Uplift Education has not resolved the due process complaint to the satisfaction of the parent within 30 calendar days of the receipt of the complaint, the due process hearing may occur. If Uplift Education is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made, Uplift Education may, at the conclusion of the 30-day period, request that a hearing officer dismiss the parent’s due process complaint.

34 CFR 300.510.

SECTION 22: SPECIAL EDUCATION VIDEO SURVEILLANCE

DEFINITIONS

For purposes of this policy, the following terms will have the meanings set forth below:

“Parent” means a person standing in parental relation to a child, including a guardian, and whose child receives special education and related services and assigned to one or more self-contained classrooms or other special education settings for at least 50 percent of the instructional day.

“Staff member” means a teacher, related service provider, paraprofessional, counselor, or educational aide assigned to work in a self-contained classroom or other special education setting.

“Board” means a majority of the Uplift Education Board of Directors.

“School business day” means a day that campus or Uplift Education administrative offices are open.

“Time-Out” has the meaning assigned by Education Code 37.0021.

“Self-contained classroom” means a classroom on a regular Uplift Education campus (*i.e.*, a campus that serves students in general education and students in special education) in which a majority of the students in regular attendance are provided special education and related services and have one of the following instructional arrangements/settings described in the Student Attendance Accounting Handbook adopted by the Texas Education Agency (“TEA”):

- self-contained (mild/moderate/severe) regular campus;
- full-time early childhood (preschool program for children with disabilities) special education setting;
- residential care and treatment facility--self-contained (mild/moderate/severe) regular campus;
- residential care and treatment facility--full-time early childhood special education setting;
- off home campus--self-contained (mild/moderate/severe) regular campus; or
- off home campus--full-time early childhood special education setting.

“Other special education setting” means a classroom on a separate Uplift Education campus (*i.e.*, a campus that serves only students who receive special education and related services) in which a majority of the students in regular attendance are provided special education and related services and have one of the following instructional arrangements/settings described in the Student Attendance Accounting Handbook adopted by the TEA:

- residential care and treatment facility--separate campus; or
- off home campus--separate campus.

“Incident” means an event or circumstance that involves alleged “abuse” or “neglect,” as those terms are described in Texas Family Code Section 261.001, of a student by an Uplift Education employee or alleged “physical abuse” or “sexual abuse,” as those terms are described in Texas Family Code Section 261.410, of a

student by another student; and allegedly occurred in a self-contained classroom or other special education setting in which video surveillance is conducted under Texas Education Code Section 29.022.

PROMOTION OF STUDENT SAFETY

Uplift Education will, upon receipt of a written request authorized by this policy, provide equipment, including a video camera, to the school or schools specified in the request.

A school or campus that receives equipment due to a video surveillance request shall place, operate, and maintain one or more video cameras in self-contained classrooms and other special education settings in which a majority of the students in regular attendance are provided special education and related services and are assigned to one or more self-contained classrooms or other special education settings for at least 50 percent of the instructional day, provided that:

1. a school or campus that receives equipment as a result of the request by a parent or staff member is required to place equipment only in classrooms or settings in which the parent's child is in regular attendance or to which the staff member is assigned, as applicable; and
2. a school or campus that receives equipment as a result of the request by the Board of Directors, a principal, or an assistant principal is required to place equipment only in classrooms or settings identified by the requestor, if the requestor limits the request to specific classrooms or settings subject to Texas Education Code § 29.022.

Tex. Educ. Code § 29.022.

Uplift Education may not:

1. allow regular or continual monitoring of video recorded under this policy; or
2. use video recorded under this policy for routine teacher evaluation or monitoring or for any purpose other than the promotion of student safety.

Tex. Educ. Code § 29.022(h).

PROCEDURES FOR REQUESTING VIDEO SURVEILLANCE

Video surveillance under this policy is for the purpose of promoting student safety in certain self-contained classrooms and other special education settings.

a) *Parent Request*

A parent may request in writing that equipment be provided to the school or campus at which the parent's child receives special education services in one or more self-contained classrooms or other special education settings.

Tex. Educ. Code § 29.022(a-1)(1).

b) *Board Request*

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The Board of Directors may request in writing that equipment be provided to one or more specified schools or campuses at which one or more children receive special education services in self-contained classrooms or other special education settings.

Tex. Educ. Code § 29.022(a-1)(2).

c) *Principal or Assistant Principal Request*

The Principal or Assistant Principal of a school or campus at which one or more children receive special education services in self-contained classrooms or other special education settings may request in writing that equipment be provided to the Principal's or Assistant Principal's school or campus.

Tex. Educ. Code § 29.022(a-1)(3).

d) *Staff Member Request*

A staff member assigned to work with one or more children receiving special education services in a self-contained classroom or other special education settings may request in writing that equipment be provided to the school or campus at which the staff member works.

Tex. Educ. Code § 29.022(a-1)(4).

e) *Additional Procedures*

Uplift Education shall designate an administrator (the "Administrator") at the Uplift Education Central Office with responsibility for coordinating the provision of equipment to schools and campuses in compliance with this policy.

Tex. Educ. Code § 29.022(a-2).

A written request must be submitted and acted on as follows:

1. A parent, staff member, or Assistant Principal must submit a request to the Principal or designee of the school or campus addressed in the request, and the Principal or designee must provide a copy of the request to the Administrator.
2. A Principal must submit a request by the Principal to the Administrator.
3. The Board of Directors must submit a request to the Administrator, and the Administrator must provide a copy of the request to the Principal or designee of the school or campus addressed in the request.

Tex. Educ. Code § 29.022(a-3).

Uplift Education shall provide a response to a request not later than the seventh school business day after receipt of the request by the person to whom it must be submitted that either authorizes the request or states the reason for denying the request. Unless granted an extension by the TEA, the school or campus must begin operation of a video camera in compliance with this policy not later than the 45th school business day, or the first school day

after the 45th school business day if that day is not a school day, after the request is authorized.

A parent of a student whose admission, review, and dismissal (“ARD”) committee has determined that the student’s placement for the following school year will be in a classroom or other special education setting in which a video camera may be placed to make a request for the video camera by the later of the date on which the current school year ends, or the 10th school business day after the date of the placement determination by the ARD committee. Unless the TEA grants an extension of time, the school or campus must begin operation of a video camera not later than the later of the 10th school day of the fall semester or the 45th school business day, or the first school day after the 45th school business day if that day is not a school day, after the date the request is made.

Tex. Educ. Code § 29.022(l).

ADVANCE WRITTEN NOTICE TO CAMPUS STAFF AND PARENTS

Before Uplift Education activates a video camera in a classroom or other special education setting, Uplift Education shall provide written notice of the placement to all school or campus staff and to the parents of each student attending class or engaging in school activities in the classroom or setting. This notice shall be in the form of a “Notice of Installation of Video and Audio Recording Equipment” form adopted by the Superintendent or designee, and shall be distributed to all parties prior to the start of recording.

At Uplift Education’s discretion, campuses may post a notice at the entrance of any self-contained classroom or other special education setting in which video camera are placed stating that video and audio surveillance are conducted in the classroom or setting.

Tex. Educ. Code § 29.022(d).

TIMES OF OPERATION

Cameras shall be operational at all times during the instructional day when students are in the self-contained classroom or other special education setting.

A school or campus that places a video camera in a classroom or other special education setting shall operate and maintain the video camera in the classroom or setting, as long as the classroom or setting continues to satisfy the requirements under this policy, for the remainder of the school year in which the school or campus received the request, unless the requestor withdraws the request in writing.

If for any reason a school or campus will discontinue operation of a video camera during a school year, not later than the fifth school day before the date the operation of the video camera will be discontinued, the school or campus must notify the parents of each student in regular attendance in the classroom or setting that operation of the video camera will not continue unless requested by a person eligible to make a request.

Not later than the 10th school day before the end of each school year, the school or campus must notify the parents of each student in regular attendance in the classroom or setting that operation of the video camera will not continue during the following school year unless a person eligible to make a request for the next school year

submits a new request.

This policy applies to placement, operation, and maintenance of a video camera in a self-contained classroom or other special education setting during the regular school year and extended school year services.

Tex. Educ. Code § 29.022(b).

RESTRICTIONS ON VIDEO RECORDING

Video cameras must be capable of covering all areas of the classroom or other special education setting, including a room attached to the classroom or setting used for time-out. Video cameras must also be capable of recording audio from all areas of the classroom or other special education setting, including a room attached to the classroom or setting used for time-out.

The inside of a bathroom or any area in the classroom or other special education setting in which a student's clothes are changed may not be visually monitored, except for incidental coverage of a minor portion of a bathroom or changing area because of the layout of classroom or setting.

Tex. Educ. Code § 29.022(c), (c-1).

RETENTION OF RECORDINGS

Uplift Education shall retain video recordings from a video camera placed under this policy for at least three months after the date the video was recorded.

If a person described above (Requests to View a Video Recording) as eligible to receive a copy of a video requests to view a video recording from a video camera placed under this policy, Uplift Education must retain the recording from the date of receipt of the request until the person has viewed the recording and a determination has been made as to whether the recording documents an alleged incident. If the recording documents an alleged incident, Uplift Education shall retain the recording until the alleged incident has been resolved, including the exhaustion of all appeals.

Tex. Educ. Code § 29.022(e), (e-1).

A video recording under this policy is a governmental record only for purposes of 37.10, Penal Code.

CONFIDENTIALITY OF VIDEO RECORDINGS

A video recording of a student is confidential and may not be released or viewed except as provided by Texas Education Code Section 29.022; the Family Educational Rights and Privacy Act of 1974 ("FERPA"); or other applicable law.

Tex. Educ. Code § 29.022(i).

a) *Requests to View a Video Recording*

Uplift Education will release a recording for viewing by:

1. A Uplift Education employee who is involved in an alleged incident that is documented by the recording and has been reported to Uplift Education, on request of the employee;
2. A parent of a student who is involved in an alleged incident that is documented by the recording and has been reported to Uplift Education, on request of the parent;
3. Appropriate Department of Family and Protective Services (“DFPS”) personnel as part of an investigation under Section 261.406, Family Code;
4. A peace officer, a school nurse, a district-level or campus-level administrator trained in de-escalation and restraint techniques as provided by commissioner rule, or a human resources staff member designated by the Board in response to a report of an alleged incident or an investigation of Uplift Education personnel or a report of alleged abuse committed by a student; or
5. Appropriate TEA or State Board for Educator Certification personnel or agents as part of an investigation.

A contractor or employee performing job duties relating to the installation, operation, or maintenance of video equipment or the retention of video recordings who incidentally views a video recording is not in violation of this policy.

Tex. Educ. Code § 29.022(i), (i-1).

If a person described by subsections (4) or (5) above who views the video recording believes that the recording documents a possible violation under Subchapter E, Chapter 261, Family Code, the person shall notify the DFPS for investigation in accordance with Family Code Section 261.406.

If any person described by subsections (3), (4), or (5) above who views the recording believes that the recording documents a possible violation of Uplift Education policy, the person may allow access to the recording to appropriate legal and human resources personnel. A recording believed to document a possible violation of Uplift Education policy relating to the neglect or abuse of a student may be used as part of a disciplinary actions against Uplift Education personnel and shall be released at the request of the student’s parent in a legal proceeding.

If Uplift Education determines that the recording is an “education record,” Uplift Education shall release the recording in accordance with FERPA. State law does not limit the access of a student’s parent to a record regarding the student under FERPA or other law.

Tex. Educ. Code § 29.022(j).

In order to review recordings for potential release, and operation and maintenance of the equipment, the following individuals shall have access to the video equipment: Chief Legal Office, Senior Director of Special Populations, Managing Directors, Senior Director of Campus Support, Director of Facilities

PROCEDURES FOR REPORTING A COMPLAINT AND/OR REQUESTING TO VIEW RECORDING

Video and audio recording equipment shall be used for safety purposes to access documented, specific incidents. To report a complaint of alleged abuse or neglect to Uplift Education and/or to request to view a recording allowed

by Section 8 above, a written “Incident Report Form,” as adopted by the Superintendent or designee, shall be used by the requestor. This form will be completed to the extent of known information, and returned to the Superintendent or designee for validation.

GRIEVANCE PROCEDURES

The special education dispute resolution procedures in 34 C.F.R. 300.151-300.153 and 300.504-300.515, do not apply to complaints alleging that Uplift Education has failed to comply with Education Code Section 29.022. Complaints alleging violations of Uplift Education’s video surveillance obligations for special education settings under Education Code Section 29.022 must be addressed through Uplift Education’s Student and Parent Grievance Process, as adopted by the Board.

Uplift Education, a parent, staff member, or an administrator may request an expedited review by the TEA of Uplift Education’s (1) denial of a request, (2) request for an extension of time to begin operation of a video camera, or (3) determination to not release a video recording to an individual. If Uplift Education, a parent, staff member or administrator requests an expedited review, the TEA shall notify all other interested parties of the request.

Tex. Educ. Code § 29.022(m), (n).

If an expedited review has been requested, the TEA shall issue a preliminary judgment as to whether Uplift Education is likely to prevail on the issue under a full review by the TEA. If the TEA determines Uplift Education is not likely to prevail, Uplift Education must fully comply with the policy notwithstanding an appeal of the TEA’s decision. The TEA shall notify the requestor and Uplift Education, if Uplift Education is not the requestor, of the TEA’s determination.

Tex. Educ. Code § 29.022(o).

FUNDING

Uplift Education may solicit and accept gifts, grants, and donations from any person to implement the requirements in Education Code Section 29.022. Uplift Education is not permitted to use Individuals with Disabilities Education Act, Part B, funds or state special education funds to implement the requirements of Education Code Section 29.022.

Tex. Educ. Code §§ 29.022(f), 48.115.

NO WAIVER OF IMMUNITY

The requirements described by this policy do not:

1. Waive any immunity from liability of Uplift Education, or of Uplift Education officers or employees; or

2. Create any liability for a cause of action against Uplift Education or against Uplift Education officers or employees.

Tex. Educ. Code § 29.022(g).

SECTION 23: SPECIAL EDUCATION FUNDING

FEDERAL FUNDING COMPLIANCE

Uplift Education shall use Individuals with Disabilities Education Act (“IDEA”) Part B funds received to:

1. comply with the federal maintenance of effort (“MOE”) requirements;
2. supplement State, local and other Federal funds and not supplant such funds; and
3. pay the excess costs of providing special education and related services to children with disabilities and must be used to supplement State, local, and other Federal funds.

34 CFR 300.202, 20 U.S.C. 1413(a)(2).

REDUCING LEVEL OF EXPENDITURES

Funds provided to Uplift Education will not be used to reduce the level of expenditures for the education of students with disabilities made by Uplift Education below the level of those funds for the preceding year.

20 U.S.C. 1423(a)(2)(A)(iii), Appendix E to Part 300.

Uplift Education may reduce the level of expenditures if the reduction is attributable to:

1. Voluntary departure, retirement, or departure for just cause of special education personnel;
2. A decrease in enrollment of students with disabilities;
3. The termination of the obligation of Uplift Education to provide a special education program to a particular student with a disability that is an exceptionally costly program because the child left Uplift Education, aged out of services, or no longer needs special education;
4. The termination of costly expenditures for long-term purchases; or
5. The assumption of cost by the high cost fund operated by the Texas Education Agency.

34 CFR 300.204.

EXCESS EXPENDITURES

Having complied with MOE and excess costs requirements, IDEA Part B funds provided to the school will be used for the following activities:

1. For the costs of special education and related services, and supplementary aids and services, provided in a regular class or other education-related setting to the child with a disability in accordance with the individualized education program (“IEP”) of the child, even if nondisabled children benefit from such services;
2. To develop and implement coordinated, early intervening educational services in compliance with the child find and administration requirements, including:

- a. Early intervening services, which may include interagency financing structures, for children in kindergarten through grade 12 (with a particular emphasis on children in kindergarten through grade 3) who are not currently identified as needing special education or related services but who need additional academic and behavioral support to succeed in a general education environment;
- b. Uplift Education may not use more than 15 percent of the amount received under IDEA Part B for any fiscal year, less any adjustments by Uplift Education to local fiscal effort, if any, in combination with other amounts, which may include amounts other than education funds, to develop and implement coordinated, early intervening services; and
3. To establish and implement cost or risk-sharing funds, consortia, or cooperatives for Uplift Education, or for Uplift Education's working in a consortium of which Uplift Education is a part, to pay for high-cost special education and related services.
4. Uplift Education may use IDEA Part B funds to purchase appropriate technology for recordkeeping, data collection, and related case management activities of teachers and related services personnel providing services described in the IEP that is needed for the implementation of such case management activities.

34 CFR 300.208.

EARLY INTERVENING SERVICES

Funds made available for early intervening services must supplement, not supplant, funds available under the Elementary and Secondary Education Act ("ESEA").

34 CFR 300.226(e).

USE OF IDEA PART B FUNDS FOR TITLE 1 PROGRAMS

Notwithstanding any other provisions related to commingling funds, Uplift Education may use IDEA Part B funds received for any fiscal year to carry out a Title 1, Part A school wide programs under ESEA, except that the amount may not exceed:

the amount received by the school under IDEA Part B for that fiscal year; divided by
the number of students with disabilities in the jurisdiction of the school; and multiplied by
the number of students with disabilities participating in the school wide program.

Part B funds may only be used in accordance with this calculation if Uplift Education ensures that all children with disabilities receive services in accordance with a properly developed IEP and are afforded all of the rights and services guaranteed to children with disabilities under the IDEA.

34 CFR 300.206; 20 U.S.C. 1413.

COMPLIANCE WITH FEDERAL FUNDING REQUIREMENTS: TITLE 1

To the extent required under Title 1 of the ESEA, Uplift Education shall ensure equity among school programs

in staff/student ratios and in expenditures of money for curriculum materials and instructional supplies. “Staff” shall include teachers, administrators, and auxiliary personnel. In special programs, such as special education and bilingual education, a lower ratio may be maintained, and more money may be spent as necessary to fulfill other legal requirements.

The parental involvement program shall be set up in accordance with requirements of Title 1 of the ESEA, as applicable. Parental involvement is encouraged and required in the planning and decision-making process for the school and for the campus.

20 U.S.C. § 6318.

EXCESS COSTS

Excess costs are those costs that are in excess of the average annual per student expenditure in Uplift Education during the preceding school year for the elementary or secondary school child that may be computed: (1) after deducting amounts received under IDEA-B and Part A of Title I and Part A of Title III of the Elementary and Secondary Education Act (ESEA); and (2) any state or local funds spent for services under the IDEA-B and Part A of Title I and Part A of Title III of the ESEA, excluding any amounts spent for capital outlay for debt services.

34 CFR 300.16.

Uplift Education meets the excess cost requirement if it has spent at least a minimum average amount for the education of its children with disabilities before using IDEA-B funds. The excess cost requirement prevents Uplift Education from using IDEA-B funds to pay for all the costs directly attributable to the education of the child with a disability, except the excess cost requirement does not prevent Uplift Education from using IDEA-B funds, in compliance with nonsupplanting and other requirements, to pay for all costs directly attributable to the education of the child with a disability in any of the ages 3, 4, 5, 18, 19, 20, or 21, if no local or state funds are available for nondisabled children of these ages.

34 CFR 300.202.

Before Uplift Education may access IDEA-B funds, Uplift Education must compute the minimum average amount it must spend separately for children with disabilities in its elementary schools and for children with disabilities in its secondary schools in accordance with the calculation requirements under 34 CFR 300.16. IDEA-B funds can only be used for elementary school children with disabilities for excess costs over and above the minimum obtained when Uplift Education multiplies the number of elementary school children with disabilities in Uplift Education by the average annual per student expenditure.

To calculate the minimum amount the LEA must spend on the average for each of its secondary school children with disabilities before it may use IDEA-B funds, Uplift Education must use the formula provided in Appendix A to Part 300 for elementary school children located [here](#). IDEA-B funds can only be used for secondary school children with disabilities for excess costs over and above the minimum obtained when Uplift Education multiplies the number of secondary school children with disabilities in Uplift Education by the average annual per student expenditure.

34 CFR 300.16.

MAINTENANCE OF EFFORT

Funds provided to Uplift Education under IDEA-B must not be used to reduce the level of expenditures for the education of children with disabilities made by Uplift Education from local funds below the level of those expenditures for the preceding fiscal year, except as provided in 34 CFR 300.204. Uplift Education must comply with all requirements set forth in 34 CFR 300.203 and 34 CFR 300.204 relating to Maintenance of Effort.

34 CFR 300.203, 34 CFR 300.204.

USE OF STATE SPECIAL EDUCATION FUNDS

Special education grants shall be made available to Uplift Education from funds appropriated, federal funds, or any other funds available, to assist Uplift Education in covering the cost of educating children with disabilities. Uplift Education may apply for a special education grant if Uplift Education does not receive sufficient funds, including state funds and federal funds, for the child with disabilities to pay for the special education services provided to the child or for all children with disabilities in Uplift Education to pay for special education services provided to the children.

Tex. Educ. Code § 29.018(b).

Uplift Education must provide a report comparing the state and federal funds received by Uplift Education for children with disabilities and the expenses incurred by Uplift Education in providing special education services to children with disabilities.

Tex. Educ. Code § 29.018(c).

The cost of training personnel to provide special education services to the child with disabilities are expenses that may be included by Uplift Education when applying for a special education grant.

Tex. Educ. Code § 29.018(d).

ACCOUNTABILITY FOR STATE SPECIAL EDUCATION FUNDS

The receipt of special education funds is contingent upon the operation of an approved comprehensive special education program in accordance with state and federal laws and regulations. At least 55 percent of the state special education funds must be used in the special education program, and Uplift Education may not divert special education funds for other purposes, with the exception of administrative costs relating to maximum indirect cost allowable on certain foundation school program allotments.

Funds generated by full-time equivalents in one instructional arrangement may be spent on the overall special education program and are not limited to the instructional arrangement which generated the funds. Uplift Education must maintain separate accountability for the total state special education program fund within the general fund. A special education fund balance may be carried over to the next fiscal year, but the balance must

be expended on the special education program in the subsequent year, and state special education carry-over funds cannot be used for administrative costs.

Tex. Educ. Code § 48.102; 19 TAC 89.1121.

USE OF STATE SPECIAL EDUCATION FUNDS FOR PERSONNEL

Uplift Education personnel paid from special education funds must be assigned to instructional or other duties in the special education program and/or to provide support services to the general education program in order for children with disabilities to be included in the general education program. Support services must include, but not be limited to, collaborative planning, co-teaching, small group instruction with children in special education and regular education, direct instruction to children in special education, or other support services determined necessary by the admission, review, and dismissal committee for an appropriate program for the child with disabilities.

Assignments may include duties supportive to school operations equivalent to those assigned to general education personnel. Personnel assigned to provide support services to the general education program may be fully funded from special education funds. If personnel are assigned to special education on less than a full-time basis, only that portion of time for which the personnel are assigned to children with disabilities may be paid from state special education funds.

State special education funds may be used for special materials, supplies, and equipment which are directly related to the development and implementation of IEPs of children and which are not ordinarily purchased for the regular classroom.

19 TAC 89.1125.

USE OF STATE SPECIAL EDUCATION FUNDS FOR MATERIALS, SUPPLIES, AND EQUIPMENT

Uplift Education may not use state special education funds for office and routine classroom supplies.

19 TAC 89.1125.

USE OF STATE SPECIAL EDUCATION FUNDS FOR CONTRACT SERVICES

Uplift Education may use state special education funds to contract with consultants to provide staff development, program planning and evaluation, instructional services, assessments, and related services to children with disabilities.

19 TAC 89.1125.

USE OF STATE SPECIAL EDUCATION FUNDS FOR TRAVEL

Uplift Education may use state special education funds to pay staff travel to perform services directly related to the education of eligible children with disabilities. Funds may also be used to pay travel of staff, including

administrators, general education teachers, and special education teachers and service providers to attend staff development meetings for the purpose of improving performance in assigned positions directly related to the education of eligible children with disabilities. The purpose for attending such staff development meetings must not include time spent in performing functions relating to the operation of professional organizations. Funds may also be used to pay for the joint training of parents and special education, related services, and general education personnel.

19 TAC 89.1125.

COORDINATION OF FUNDS TO PURCHASE INSTRUCTIONAL MATERIALS

Instructional materials adopted by Uplift Education must be provided to students at no cost.

If Uplift Education chooses to coordinate with the National Instructional Materials Access Center (NIMAC) when purchasing print instructional materials, it must acquire the print instructional materials in the same manner and subject to the same conditions as the Texas Education Agency acquires print instructional materials.

If Uplift Education chooses not to coordinate with the NIMAC when purchasing print instructional materials, it will provide instructional materials to blind persons or other persons with print disabilities in a timely manner and shall provide assurance of compliance with this policy to the Texas Education Agency.

34 CFR 300.210(a) and (b).

NONEDUCATIONAL COMMUNITY BASED SUPPORT SERVICES

Students with disabilities and their families may be eligible to receive non-educational community-based support services paid for by public funds.

The Texas Education Agency (“TEA”) is responsible for establishing procedures and criteria for the allocation of noneducational funds to open-enrollment charter schools for the provision of noneducational community-based support services to certain students with disabilities and their families so that those students may receive a free appropriate public education (“FAPE”) in the least restrictive environment.

Tex. Educ. Code § 29.013(a).

Uplift Education shall use any funds allocated under Education Code Section 29.013 only for eligible students with disabilities who would remain or would have to be placed in residential facilities primarily for educational reasons without the provision of noneducational community-based support services.

Tex. Educ. Code § 29.013(b).

The support services may include in-home family support, respite care, and case management for families with a student who otherwise would have been placed by an open-enrollment charter school in a private residential facility.

Tex. Educ. Code § 29.013(c).

The provision of services under Texas Education Code Section 29.013 does not supersede or limit the responsibility of other agencies to provide or pay for costs of noneducational community-based support services to enable any student with disabilities to receive a FAPE in the least restrictive environment. Specifically, services provided under Education Code Section 29.013 may not be used for a student with disabilities who is currently placed or who needs to be placed in a residential facility primarily for noneducational reasons. Funds cannot be used to cover services already required through the student's individual education program or for long-term care.

Tex. Educ. Code §29.013(d).

SHARED SERVICES ARRANGEMENTS

Uplift Education may enter into a written contract with a public or private entity to jointly operate its special education programs. Funds to which the cooperating schools/charter schools are entitled may be allocated to the schools/charter schools jointly as shared services arrangement units or shared services arrangement funds in accordance with the shared services arrangement schools/charters' agreement, Texas Education Agency Guidance and Texas Government. Code Chapter 791 (interlocal agreements).

Tex. Educ. Code § 11.157

FUNDING FOR RESIDENTIAL PLACEMENTS & NON-PUBLIC DAY SCHOOLS

Uplift Education must place a student with a disability in a public or private residential program if the placement is necessary to provide special education and related services to the student. This shall be at no cost to the parent of the student. Uplift Education may use a combination of federal, state, and local funds to pay costs of an approved educationally-based contract for residential placement. Uplift Education must comply with funding mechanisms in the Texas Education Code and Texas Administrative Code regarding residential placements.

Tex. Educ. Code § 29.008; 19 TAC 89.1092.

If Uplift Education contracts for services from non-public day schools, Uplift Education must comply with procedures developed by TEA for monitoring the provision of special education and related services at no cost to the parent in conformance with the IEP.

34 CFR 300.146; 34 CFR 300.147; 19 TAC 89.1050.

STATE FUNDING: SPECIAL ALLOTMENTS

Uplift Education shall maintain records of students participating in special programs in accordance with the Commissioner of Education's rules and TEA's Student Attendance Accounting Handbook. *19 TAC 129.1025.*

SPECIAL EDUCATION ALLOTMENT

Each open-enrollment charter school will receive an annual allotment equal to the adjusted basic allotment

multiplied by an amount identified in state law for each student receiving special education and related services in a mainstream instructional arrangement. For each full-time equivalent student receiving special education and related services in average daily attendance in an instructional arrangement other than a mainstream instructional arrangement, the open-enrollment charter school is entitled to an annual allotment equal to the adjusted basic allotment multiplied by a weight determined according to instructional arrangement as set forth in Section 48.102, Texas Education Code.

Funds allocated under this section, other than an indirect cost allotment established under State Board of Education (“SBOE”) rule, must be used in the special education program under Subchapter A, Chapter 29 of the Texas Education Code.

Tex. Educ. Code § 48.102.

Uplift Education is entitled to receive funds for the provision of extended school year (ESY) services up to 75 percent of the applicable allotment for each FTE child in ADA, multiplied by the amount designated for the child’s instructional arrangement for each day the program is provided and divided by the number of days in the minimum school year. Uplift Education may use funds received for ESY only in providing ESY and is not eligible for reimbursement for ESY services provided to children for reasons other than those allowed under the law.

Tex. Educ. Code § 48.102(j).

ALLOTMENT FOR STUDENTS WITH DYSLLEXIA OR RELATED DISORDER

Each open-enrollment charter school will receive an annual allotment equal to the adjusted basic allotment multiplied by an amount identified in state law for a student who is receiving dyslexia or a related service in accordance with an IEP or Section 504 plan; is receiving instruction that meets applicable dyslexia program criteria established by the State Board of Education and is provided by a person with specific training in providing that instruction; or is permitted, on the basis of having dyslexia or a related disorder, to use modifications in the classroom or accommodations in the student's classroom or accommodations in the administration of assessment instruments under Section 39.023 of the Texas Education Code. The open-enrollment charter school may receive funding for a student under this section and Section 2 above (involving Section 48.102 of the Texas Education Code) if the student satisfies the requirements of both sections.

Each open-enrollment charter school may use an amount not to exceed the amount identified in state law to contract with a private provider to provide supplemental academic services to the student that are recommended by the student’s program or plan. A student may not be excused from school to receive supplemental academic services provided under this section.

Tex. Educ. Code § 48.103.