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By:  Powell S.B. No. 1108

A BILL TO BE ENTITLED

AN ACT

relating to the terminology used to refer to an individualized education program team.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  Section 5.001, Education Code, is amended by amending Subdivision (5-a) and adding Subdivision (5-b) to read as follows:

(5-a)  "Individualized education program team" has the meaning assigned by 20 U.S.C. Section 1414(d)(1)(B).

(5-b)  "Mental health condition" means a persistent or recurrent pattern of thoughts, feelings, or behaviors that:

(A)  constitutes a mental illness, disease, or disorder, other than or in addition to epilepsy, substance abuse, or an intellectual disability; or

(B)  impairs a person's social, emotional, or educational functioning and increases the risk of developing a condition described by Paragraph (A).

SECTION 2.  Subchapter A, Chapter 7, Education Code, is amended by adding Section 7.011 to read as follows:

Sec. 7.011.  USE OF TERMINOLOGY CONSISTENT WITH INDIVIDUALS WITH DISABILITIES EDUCATION ACT. (a) The legislature and the Texas Legislative Council are directed, with respect to drafting or amending any new or existing statute or resolution, and the commissioner, the agency, and all other state agencies are directed, with respect to the proposing, adopting, or amending of new or existing rules and the producing of state agency reference materials or publications, including electronic media, to avoid using the phrases "admission, review, and dismissal committee" or "ARD committee."

(b)  In enacting, revising, proposing, adopting, amending, or producing new or existing statutes, resolutions, rules, or state agency materials, the legislature, the Texas Legislative Council, the commissioner, the agency, and all other state agencies are directed to replace, as appropriate, the phrases described in Subsection (a) with the preferred phrases "individualized education program team" or "IEP team."

(c)  A statute, resolution, or rule is not invalid solely because it does not employ this section's preferred phrases.

SECTION 3.  Section 25.007(b), Education Code, is amended to read as follows:

(b)  In recognition of the challenges faced by students who are homeless or in substitute care, the agency shall assist the transition of students who are homeless or in substitute care from one school to another by:

(1)  ensuring that school records for a student who is homeless or in substitute care are transferred to the student's new school not later than the 10th working day after the date the student begins enrollment at the school;

(2)  developing systems to ease transition of a student who is homeless or in substitute care during the first two weeks of enrollment at a new school;

(3)  developing procedures for awarding credit, including partial credit if appropriate, for course work, including electives, completed by a student who is homeless or in substitute care while enrolled at another school;

(4)  developing procedures to ensure that a new school relies on decisions made by the previous school regarding placement in courses or educational programs of a student who is homeless or in substitute care and places the student in comparable courses or educational programs at the new school, if those courses or programs are available;

(5)  promoting practices that facilitate access by a student who is homeless or in substitute care to extracurricular programs, summer programs, credit transfer services, electronic courses provided under Chapter 30A, and after-school tutoring programs at nominal or no cost;

(6)  establishing procedures to lessen the adverse impact of the movement of a student who is homeless or in substitute care to a new school;

(7)  entering into a memorandum of understanding with the Department of Family and Protective Services regarding the exchange of information as appropriate to facilitate the transition of students in substitute care from one school to another;

(8)  encouraging school districts and open-enrollment charter schools to provide services for a student who is homeless or in substitute care in transition when applying for admission to postsecondary study and when seeking sources of funding for postsecondary study;

(9)  requiring school districts, campuses, and open-enrollment charter schools to accept a referral for special education services made for a student who is homeless or in substitute care by a school previously attended by the student, and to provide comparable services to the student during the referral process or until the new school develops an individualized education program for the student;

(10)  requiring school districts, campuses, and open-enrollment charter schools to provide notice to the child's educational decision-maker and caseworker regarding events that may significantly impact the education of a child, including:

(A)  requests or referrals for an evaluation under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), or special education under Section 29.003;

(B)  individualized education program team [~~admission, review, and dismissal committee~~] meetings;

(C)  manifestation determination reviews required by Section 37.004(b);

(D)  any disciplinary actions under Chapter 37 for which parental notice is required;

(E)  citations issued for Class C misdemeanor offenses on school property or at school-sponsored activities;

(F)  reports of restraint and seclusion required by Section 37.0021;

(G)  use of corporal punishment as provided by Section 37.0011; and

(H)  appointment of a surrogate parent for the child under Section 29.0151;

(11)  developing procedures for allowing a student who is homeless or in substitute care who was previously enrolled in a course required for graduation the opportunity, to the extent practicable, to complete the course, at no cost to the student, before the beginning of the next school year;

(12)  ensuring that a student who is homeless or in substitute care who is not likely to receive a high school diploma before the fifth school year following the student's enrollment in grade nine, as determined by the district, has the student's course credit accrual and personal graduation plan reviewed;

(13)  ensuring that a student in substitute care who is in grade 11 or 12 be provided information regarding tuition and fee exemptions under Section 54.366 for dual-credit or other courses provided by a public institution of higher education for which a high school student may earn joint high school and college credit;

(14)  designating at least one agency employee to act as a liaison officer regarding educational issues related to students in the conservatorship of the Department of Family and Protective Services; and

(15)  providing other assistance as identified by the agency.

SECTION 4.  Section 25.043(h), Education Code, is amended to read as follows:

(h)  This section does not affect:

(1)  a right or obligation under Subchapter A, Chapter 29, or under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) regarding the individual placement decisions of an individualized education program team [~~the school district admission, review, and dismissal committee~~]; or

(2)  the right of a school district or teacher to remove a student from a classroom under Chapter 37.

SECTION 5.  Sections 26.0081(a) and (b), Education Code, are amended to read as follows:

(a)  The agency shall produce and provide to school districts sufficient copies of a comprehensive, easily understood document that explains the process by which an individualized education program is developed for a student in a special education program and the rights and responsibilities of a parent concerning the process. The document must include information a parent needs to effectively participate in an individualized education program team [~~admission, review, and dismissal committee~~] meeting for the parent's child.

(b)  The agency will ensure that each school district provides the document required under this section to the parent as provided by 20 U.S.C. Section 1415(b):

(1)  as soon as practicable after a child is referred to determine the child's eligibility for admission into the district's special education program, but at least five school days before the date of the initial meeting of the individualized education program team [~~admission, review, and dismissal committee~~]; and

(2)  at any other time on reasonable request of the child's parent.

SECTION 6.  Section 28.006(g), Education Code, is amended to read as follows:

(g)  A school district shall notify the parent or guardian of each student in kindergarten or first or second grade who is determined, on the basis of reading instrument results, to be at risk for dyslexia or other reading difficulties. The district shall implement an accelerated reading instruction program that provides reading instruction that addresses reading deficiencies to those students and shall determine the form, content, and timing of that program. The individualized education program team [~~admission, review, and dismissal committee~~] of a student who participates in a district's special education program under Subchapter B, Chapter 29, and who does not perform satisfactorily on a reading instrument under this section shall determine the manner in which the student will participate in an accelerated reading instruction program under this subsection.

SECTION 7.  Sections 28.0211(i), (i-1), and (i-2), Education Code, are amended to read as follows:

(i)  The individualized education program team [~~admission, review, and dismissal committee~~] of a student who participates in a district's special education program under Subchapter A, Chapter 29, and who does not perform satisfactorily on an assessment instrument specified under Subsection (a) and administered under Section 39.023(a) or (b) must meet before the student is administered the assessment instrument for the second time. The team [~~committee~~] shall determine:

(1)  the manner in which the student will participate in an accelerated instruction program under this section; and

(2)  whether the student will be promoted in accordance with Subsection (i-1) or retained under this section.

(i-1)  At a meeting of the individualized education program team [~~admission, review, and dismissal committee~~] of a student under Subsection (i), the team [~~committee~~] may promote the student to the next grade level if the team [~~committee~~] concludes that the student has made sufficient progress in the measurable academic goals contained in the student's individualized education program developed under Section 29.005. A school district that promotes a student under this subsection is not required to provide an additional opportunity for the student to perform satisfactorily on the assessment instrument.

(i-2)  Not later than September 1 of each school year, a school district must notify the parent or person standing in parental relation to a student enrolled in the district's special education program under Subchapter A, Chapter 29, of the options of the individualized education program team [~~admission, review, and dismissal committee~~] under Subsections (i) and (i-1) if the student does not perform satisfactorily on an assessment instrument.

SECTION 8.  Section 28.0213(e), Education Code, is amended to read as follows:

(e)  For a student in a special education program under Subchapter A, Chapter 29, who does not perform satisfactorily on an assessment instrument administered under Section 39.023(a), (b), or (c), the student's individualized education program team [~~admission, review, and dismissal committee~~] shall design the program to:

(1)  enable the student to attain a standard of annual growth on the basis of the student's individualized education program; and

(2)  if applicable, carry out the purposes of Section 28.0211.

SECTION 9.  Sections 28.025(b-11), (b-14), (c-7), and (c-8), Education Code, are amended to read as follows:

(b-11)  In adopting rules under Subsection (b-1), the State Board of Education shall allow a student who is unable to participate in physical activity due to disability or illness to substitute one credit in English language arts, mathematics, science, or social studies, one credit in a course that is offered for credit as provided by Section 28.002(g-1), or one academic elective credit for the physical education credit required under Subsection (b-1)(8). A credit allowed to be substituted under this subsection may not also be used by the student to satisfy a graduation requirement other than completion of the physical education credit. The rules must provide that the determination regarding a student's ability to participate in physical activity will be made by:

(1)  if the student receives special education services under Subchapter A, Chapter 29, the student's individualized education program team [~~admission, review, and dismissal committee~~];

(2)  if the student does not receive special education services under Subchapter A, Chapter 29, but is covered by Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), the committee established for the student under that Act; or

(3)  if a team or a committee [~~each of the committees~~] described by Subdivision [~~Subdivisions~~] (1) or [~~and~~] (2) is inapplicable, a committee established by the school district of persons with appropriate knowledge regarding the student.

(b-14)  In adopting rules under Subsection (b-1), the State Board of Education shall allow a student who, due to disability, is unable to complete two courses in the same language in a language other than English, as provided under Subsection (b-1)(5), to substitute for those credits two credits in English language arts, mathematics, science, or social studies or two credits in career and technology education, technology applications, or other academic electives. A credit allowed to be substituted under this subsection may not also be used by the student to satisfy a graduation credit requirement other than credit for completion of a language other than English. The rules must provide that the determination regarding a student's ability to participate in language-other-than-English courses will be made by:

(1)  if the student receives special education services under Subchapter A, Chapter 29, the student's individualized education program team [~~admission, review, and dismissal committee~~]; or

(2)  if the student does not receive special education services under Subchapter A, Chapter 29, but is covered by Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), the committee established for the student under that Act.

(c-7)  Subject to Subsection (c-8), a student who is enrolled in a special education program under Subchapter A, Chapter 29, may earn an endorsement on the student's transcript by:

(1)  successfully completing, with or without modification of the curriculum:

(A)  the curriculum requirements identified by the State Board of Education under Subsection (a); and

(B)  the additional endorsement curriculum requirements prescribed by the State Board of Education under Subsection (c-2); and

(2)  successfully completing all curriculum requirements for that endorsement adopted by the State Board of Education:

(A)  without modification of the curriculum; or

(B)  with modification of the curriculum, provided that the curriculum, as modified, is sufficiently rigorous as determined by the student's individualized education program team [~~admission, review, and dismissal committee~~].

(c-8)  For purposes of Subsection (c-7), the individualized education program team [~~admission, review, and dismissal committee~~] of a student in a special education program under Subchapter A, Chapter 29, shall determine whether the student is required to achieve satisfactory performance on an end-of-course assessment instrument to earn an endorsement on the student's transcript.

SECTION 10.  Section 29.001, Education Code, is amended to read as follows:

Sec. 29.001.  STATEWIDE PLAN. The agency shall develop, and modify as necessary, a statewide design, consistent with federal law, for the delivery of services to children with disabilities in this state that includes rules for the administration and funding of the special education program so that a free appropriate public education is available to all of those children between the ages of three and 21. The statewide design shall include the provision of services primarily through school districts and shared services arrangements, supplemented by regional education service centers. The agency shall also develop and implement a statewide plan with programmatic content that includes procedures designed to:

(1)  ensure state compliance with requirements for supplemental federal funding for all state-administered programs involving the delivery of instructional or related services to students with disabilities;

(2)  facilitate interagency coordination when other state agencies are involved in the delivery of instructional or related services to students with disabilities;

(3)  periodically assess statewide personnel needs in all areas of specialization related to special education and pursue strategies to meet those needs through a consortium of representatives from regional education service centers, local education agencies, and institutions of higher education and through other available alternatives;

(4)  ensure that regional education service centers throughout the state maintain a regional support function, which may include direct service delivery and a component designed to facilitate the placement of students with disabilities who cannot be appropriately served in their resident districts;

(5)  allow the agency to effectively monitor and periodically conduct site visits of all school districts to ensure that rules adopted under this section are applied in a consistent and uniform manner, to ensure that districts are complying with those rules, and to ensure that annual statistical reports filed by the districts and not otherwise available through the Public Education Information Management System under Sections 48.008 and 48.009 are accurate and complete;

(6)  ensure that appropriately trained personnel are involved in the diagnostic and evaluative procedures operating in all districts and that those personnel routinely serve on district individualized education program teams [~~admissions, review, and dismissal committees~~];

(7)  ensure that an individualized education program for each student with a disability is properly developed, implemented, and maintained in the least restrictive environment that is appropriate to meet the student's educational needs;

(8)  ensure that, when appropriate, each student with a disability is provided an opportunity to participate in career and technology and physical education classes, in addition to participating in regular or special classes;

(9)  ensure that each student with a disability is provided necessary related services;

(10)  ensure that an individual assigned to act as a surrogate parent for a child with a disability, as provided by 20 U.S.C. Section 1415(b), is required to:

(A)  complete a training program that complies with minimum standards established by agency rule;

(B)  visit the child and the child's school;

(C)  consult with persons involved in the child's education, including teachers, caseworkers, court-appointed volunteers, guardians ad litem, attorneys ad litem, foster parents, and caretakers;

(D)  review the child's educational records;

(E)  attend meetings of the child's individualized education program team [~~admission, review, and dismissal committee~~];

(F)  exercise independent judgment in pursuing the child's interests; and

(G)  exercise the child's due process rights under applicable state and federal law; and

(11)  ensure that each district develops a process to be used by a teacher who instructs a student with a disability in a regular classroom setting:

(A)  to request a review of the student's individualized education program;

(B)  to provide input in the development of the student's individualized education program;

(C)  that provides for a timely district response to the teacher's request; and

(D)  that provides for notification to the student's parent or legal guardian of that response.

SECTION 11.  Section 29.004(a-1), Education Code, is amended to read as follows:

(a-1)  If a school district receives written consent signed by a student's parent or legal guardian for a full individual and initial evaluation of a student at least 35 but less than 45 school days before the last instructional day of the school year, the evaluation must be completed and the written report of the evaluation must be provided to the parent or legal guardian not later than June 30 of that year. The student's individualized education program team [~~admission, review, and dismissal committee~~] shall meet not later than the 15th school day of the following school year to consider the evaluation. If a district receives written consent signed by a student's parent or legal guardian less than 35 school days before the last instructional day of the school year or if the district receives the written consent at least 35 but less than 45 school days before the last instructional day of the school year but the student is absent from school during that period on three or more days, Subsection (a)(1) applies to the date the written report of the full individual and initial evaluation is required.

SECTION 12.  Sections 29.005(a), (b), (b-1), (c), and (g), Education Code, are amended to read as follows:

(a)  Before a child is enrolled in a special education program of a school district, the district shall establish an individualized education program team [~~a committee~~] composed of the persons required under 20 U.S.C. Section 1414(d) to develop the child's individualized education program. If a team [~~committee~~] is required to include a regular education teacher, the regular education teacher included must, to the extent practicable, be a teacher who is responsible for implementing a portion of the child's individualized education program.

(b)  The individualized education program team [~~committee~~] shall develop the individualized education program by agreement of the team [~~committee~~] members or, if those persons cannot agree, by an alternate method provided by the agency. Majority vote may not be used to determine the individualized education program.

(b-1)  The written statement of the individualized education program must document the decisions of the individualized education program team [~~committee~~] with respect to issues discussed at each team [~~committee~~] meeting. The written statement must include:

(1)  the date of the meeting;

(2)  the name, position, and signature of each member participating in the meeting; and

(3)  an indication of whether the child's parents, the adult student, if applicable, and the administrator agreed or disagreed with the decisions of the team [~~committee~~].

(c)  If the individualized education program is not developed by agreement, the written statement of the program required under 20 U.S.C. Section 1414(d) must include the basis of the disagreement. Each member of the individualized education program team [~~committee~~] who disagrees with the individualized education program developed by the team [~~committee~~] is entitled to include a statement of disagreement in the written statement of the program.

(g)  The individualized education program team [~~committee~~] may determine that a behavior improvement plan or a behavioral intervention plan is appropriate for a student for whom the team [~~committee~~] has developed an individualized education program. If the team [~~committee~~] makes that determination, the behavior improvement plan or the behavioral intervention plan shall be included as part of the student's individualized education program and provided to each teacher with responsibility for educating the student.

SECTION 13.  Section 29.008(c), Education Code, is amended to read as follows:

(c)  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 school district, the portion of the costs that includes appropriate education services, as determined by the individualized education program team [~~the school district's admission, review, and dismissal committee~~], shall be paid from state and federal education funds.

SECTION 14.  Sections 29.011(a) and (a-1), Education Code, are amended to read as follows:

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

(1)  appropriate student involvement in the student's transition to life outside the public school system;

(2)  if the student is younger than 18 years of age, appropriate involvement in the student's transition by the student's parents and other persons invited to participate by:

(A)  the student's parents; or

(B)  the school district in which the student is enrolled;

(3)  if the student is at least 18 years of age, involvement in the student's transition and future by the student's parents and other persons, if the parent or other person:

(A)  is invited to participate by the student or the school district in which the student is enrolled; or

(B)  has the student's consent to participate pursuant to a supported decision-making agreement under Chapter 1357, Estates Code;

(4)  appropriate postsecondary education options, including preparation for postsecondary-level coursework;

(5)  an appropriate functional vocational evaluation;

(6)  appropriate employment goals and objectives;

(7)  if the student is at least 18 years of age, the availability of age-appropriate instructional environments, including community settings or environments that prepare the student for postsecondary education or training, competitive integrated employment, or independent living, in coordination with the student's transition goals and objectives;

(8)  appropriate independent living goals and objectives;

(9)  appropriate circumstances for facilitating a referral of a student or the student's parents to a governmental agency for services or public benefits, including a referral to a governmental agency to place the student on a waiting list for public benefits available to the student, such as a waiver program established under Section 1915(c), Social Security Act (42 U.S.C. Section 1396n(c)); and

(10)  the use and availability of appropriate:

(A)  supplementary aids, services, curricula, and other opportunities to assist the student in developing decision-making skills; and

(B)  supports and services to foster the student's independence and self-determination, including a supported decision-making agreement under Chapter 1357, Estates Code.

(a-1)  A student's individualized education program team [~~admission, review, and dismissal committee~~] shall annually review the issues described by Subsection (a) and, if necessary, update the portions of the student's individualized education program that address those issues.

SECTION 15.  Section 29.0112(e), Education Code, is amended to read as follows:

(e)  A school district shall:

(1)  post the transition and employment guide on the district's website if the district maintains a website;

(2)  provide written information and, if necessary, assistance to a student or parent regarding how to access the electronic version of the guide at:

(A)  the first meeting of the student's individualized education program team [~~admission, review, and dismissal committee~~] at which transition is discussed; and

(B)  the first team [~~committee~~] meeting at which transition is discussed that occurs after the date on which the guide is updated; and

(3)  on request, provide a printed copy of the guide to a student or parent.

SECTION 16.  Section 29.015(b), Education Code, is amended to read as follows:

(b)  A foster parent who will act as a parent of a child with a disability as provided by Subsection (a) must complete a training program before the next scheduled individualized education program team [~~admission, review, and dismissal 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.

SECTION 17.  Section 29.0151(d), Education Code, is amended to read as follows:

(d)  A surrogate parent appointed by a district must:

(1)  be willing to serve in that capacity;

(2)  exercise independent judgment in pursuing the child's interests;

(3)  ensure that the child's due process rights under applicable state and federal laws are not violated;

(4)  complete a training program that complies with minimum standards established by agency rule within the time specified in Section 29.015(b);

(5)  visit the child and the school where the child is enrolled;

(6)  review the child's educational records;

(7)  consult with any person involved in the child's education, including the child's:

(A)  teachers;

(B)  caseworkers;

(C)  court-appointed volunteers;

(D)  guardian ad litem;

(E)  attorney ad litem;

(F)  foster parent; and

(G)  caregiver; and

(8)  attend meetings of the child's individualized education program team [~~admission, review, and dismissal committee~~].

SECTION 18.  Section 29.019(e), Education Code, is amended to read as follows:

(e)  Nothing in this section prohibits a school district from using individualized education program facilitation as the district's preferred method of conducting initial and annual individualized education program team [~~admission, review, and dismissal committee~~] meetings.

SECTION 19.  Section 29.020(a), Education Code, is amended to read as follows:

(a)  The agency shall develop rules in accordance with this section applicable to the administration of a state individualized education program facilitation project. The program shall include the provision of an independent individualized education program facilitator to facilitate an individualized education program team [~~admission, review, and dismissal committee~~] meeting with parties who are in a dispute about decisions relating to the provision of a free appropriate public education to a student with a disability. Facilitation implemented under the project must comply with rules developed under this subsection.

SECTION 20.  Section 29.022(l), Education Code, is amended to read as follows:

(l)  A school district or open-enrollment charter school policy relating to the placement, operation, or maintenance of video cameras under this section must:

(1)  include information on how a person may appeal an action by the district or school that the person believes to be in violation of this section or a policy adopted in accordance with this section, including the appeals process under Section 7.057;

(2)  require that the district or school provide a response to a request made under this section not later than the seventh school business day after receipt of the request by the person to whom it must be submitted under Subsection (a-3) that authorizes the request or states the reason for denying the request;

(3)  except as provided by Subdivision (5), require that a school or a campus begin operation of a video camera in compliance with this section 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 unless the agency grants an extension of time;

(4)  permit the parent of a student whose individualized education program team [~~admission, review, and dismissal 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 under this section to make a request for the video camera by the later of:

(A)  the date on which the current school year ends; or

(B)  the 10th school business day after the date of the placement determination by the individualized education program team [~~admission, review, and dismissal committee~~]; and

(5)  if a request is made by a parent in compliance with Subdivision (4), unless the agency grants an extension of time, require that a school or campus begin operation of a video camera in compliance with this section not later than the later of:

(A)  the 10th school day of the fall semester; or

(B)  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.

SECTION 21.  Section 29.026(d), Education Code, is amended to read as follows:

(d)  A school district or open-enrollment charter school may not:

(1)  charge a fee for the program, other than those authorized by law for students in public schools;

(2)  require a parent to enroll a child in the program;

(3)  allow an individualized education program team [~~admission, review, and dismissal committee~~] to place a student in the program without the written consent of the student's parent or guardian; or

(4)  continue the placement of a student in the program after the student's parent or guardian revokes consent, in writing, to the student's placement in the program.

SECTION 22.  Section 29.027(d), Education Code, is amended to read as follows:

(d)  A school district or open-enrollment charter school may not:

(1)  charge a fee for the program, other than those authorized by law for students in public schools;

(2)  require a parent to enroll a child in the program;

(3)  allow an individualized education program team [~~admission, review, and dismissal committee~~] to place a student in the program without the written consent of the student's parent or guardian; or

(4)  continue the placement of a student in the program after the student's parent or guardian revokes consent, in writing, to the student's placement in the program.

SECTION 23.  Section 29.305, Education Code, is amended to read as follows:

Sec. 29.305.  LANGUAGE MODE PEERS. If practicable and not in conflict with any individualized education program team [~~admission, review, and dismissal committee~~] recommendations, a student who is deaf or hard of hearing must have an education in the company of a sufficient number of peers using the same language mode and with whom the student can communicate directly. If practicable, the peers must be of the same or approximately the same age and ability.

SECTION 24.  Section 29.312, Education Code, is amended to read as follows:

Sec. 29.312.  PSYCHOLOGICAL COUNSELING SERVICES. Appropriate psychological counseling services for a student who is deaf or hard of hearing shall be made available at the student's school site in the student's primary mode of communication. In the case of a student who is hard of hearing, appropriate auditory systems to enhance oral communication shall be used if required by the student's individualized education program team [~~admission, review, and dismissal committee~~].

SECTION 25.  Section 29.314, Education Code, is amended to read as follows:

Sec. 29.314.  TRANSITION INTO REGULAR CLASS. In addition to satisfying requirements of the individualized education program team [~~admission, review, and dismissal committee~~] and to satisfying requirements under state and federal law for vocational training, each school district shall develop and implement a transition plan for the transition of a student who is deaf or hard of hearing into a regular class program if the student is to be transferred from a special class or center or nonpublic, nonsectarian school into a regular class in a public school for any part of the school day. The transition plan must provide for activities:

(1)  to integrate the student into the regular education program and specify the nature of each activity and the time spent on the activity each day; and

(2)  to support the transition of the student from the special education program into the regular education program.

SECTION 26.  Section 29.453(b), Education Code, is amended to read as follows:

(b)  The educational placement of an alleged offender resident and the educational services to be provided by a school district to the resident shall be determined by the resident's individualized education program team [~~admission, review, and dismissal committee~~] consistent with federal law and regulations regarding the placement of students with disabilities in the least restrictive environment. The resident's individualized education program team [~~admission, review, and dismissal committee~~] shall:

(1)  inform the resident's interdisciplinary team of a determination the resident's individualized education program team [~~committee~~] makes in accordance with this subsection; and

(2)  consult, to the extent practicable, with the resident's interdisciplinary team concerning such a determination.

SECTION 27.  Section 29.454(d), Education Code, is amended to read as follows:

(d)  Each behavior support specialist shall:

(1)  ensure that each alleged offender resident enrolled in the school district is provided behavior management services under a school behavioral intervention plan based on the resident's functional behavioral assessment, as described by Subsection (c);

(2)  communicate and coordinate with the resident's interdisciplinary team to ensure that behavioral intervention actions of the district and of the forensic state supported living center do not conflict;

(3)  in the case of a resident who regresses:

(A)  ensure that necessary corrective action is taken in the resident's individualized education program or school behavioral intervention plan, as appropriate; and

(B)  communicate with the resident's interdisciplinary team concerning the regression and encourage the team to aggressively address the regression;

(4)  participate in the resident's individualized education program team [~~admission, review, and dismissal committee~~] meetings in conjunction with:

(A)  developing and implementing the resident's school behavioral intervention plan; and

(B)  determining the appropriate educational placement for each resident, considering all available academic and behavioral information;

(5)  coordinate each resident's school behavioral intervention plan with the resident's program of active treatment provided by the forensic state supported living center to ensure consistency of approach and response to the resident's identified behaviors;

(6)  provide training for school district staff and, as appropriate, state supported living center staff in implementing behavioral intervention plans for each resident; and

(7)  remain involved with the resident during the school day.

SECTION 28.  Section 29.455(a), Education Code, is amended to read as follows:

(a)  A school district in which alleged offender residents are enrolled in school and the forensic state supported living center shall enter into a memorandum of understanding to:

(1)  establish the duties and responsibilities of the behavior support specialist to ensure the safety of all students and teachers while educational services are provided to a resident at a school in the district; and

(2)  ensure the provision of appropriate facilities for providing educational services and of necessary technological equipment if a resident's individualized education program team [~~admission, review, and dismissal committee~~] determines that the resident must receive educational services at the forensic state supported living center.

SECTION 29.  Sections 30.002(c) and (f), Education Code, are amended to read as follows:

(c)  The comprehensive statewide plan for the education of children with visual impairments must:

(1)  adequately provide for comprehensive diagnosis and evaluation of each school-age child with a serious visual impairment;

(2)  include the procedures, format, and content of the individualized education program for each child with a visual impairment;

(3)  emphasize providing educational services to children with visual impairments in their home communities whenever possible;

(4)  include methods to ensure that children with visual impairments receiving special education services in school districts receive, before being placed in a classroom setting or within a reasonable time after placement:

(A)  evaluation of the impairment; and

(B)  instruction in an expanded core curriculum, which is required for students with visual impairments to succeed in classroom settings and to derive lasting, practical benefits from the education provided by school districts, including instruction in:

(i)  compensatory skills, such as braille and concept development, and other skills needed to access the rest of the curriculum;

(ii)  orientation and mobility;

(iii)  social interaction skills;

(iv)  career planning;

(v)  assistive technology, including optical devices;

(vi)  independent living skills;

(vii)  recreation and leisure enjoyment;

(viii)  self-determination; and

(ix)  sensory efficiency;

(5)  provide for flexibility on the part of school districts to meet the special needs of children with visual impairments through:

(A)  specialty staff and resources provided by the district;

(B)  contractual arrangements with other qualified public or private agencies;

(C)  supportive assistance from regional education service centers or adjacent school districts;

(D)  short-term or long-term services through the Texas School for the Blind and Visually Impaired or related facilities or programs; or

(E)  other instructional and service arrangements approved by the agency;

(6)  include a statewide individualized education program [~~admission, review, and dismissal~~] process;

(7)  provide for effective interaction between the visually impaired child's classroom setting and the child's home environment, including providing for parental training and counseling either by school district staff or by representatives of other organizations directly involved in the development and implementation of the individualized education program for the child;

(8)  require the continuing education and professional development of school district staff providing special education services to children with visual impairments;

(9)  provide for adequate monitoring and precise evaluation of special education services provided to children with visual impairments through school districts; and

(10)  require that school districts providing special education services to children with visual impairments develop procedures for assuring that staff assigned to work with the children have prompt and effective access directly to resources available through:

(A)  cooperating agencies in the area;

(B)  the Texas School for the Blind and Visually Impaired;

(C)  the Central Media Depository for specialized instructional materials and aids made specifically for use by students with visual impairments;

(D)  sheltered workshops participating in the state program of purchases of blind-made goods and services; and

(E)  related sources.

(f)  In the development of the individualized education program for a student with a visual impairment, proficiency in reading and writing is a significant indicator of the student's satisfactory educational progress. The individualized education program for a student with a visual impairment must include instruction in braille and the use of braille unless the student's individualized education program team [~~admission, review, and dismissal committee~~] determines and documents that braille is not an appropriate literacy medium for the student. The team's [~~committee's~~] determination must be based on an evaluation of the student's appropriate literacy media and literacy skills and the student's current and future instructional needs. Braille instruction:

(1)  may be used in combination with other special education services appropriate to the student's educational needs; and

(2)  shall be provided by a teacher certified to teach students with visual impairments.

SECTION 30.  Section 30.021(b), Education Code, is amended to read as follows:

(b)  The school district in which a student resides is responsible for assuring that a free appropriate public education is provided to each district student placed in the regular school year program of the school and that all legally required meetings for the purpose of developing and reviewing the student's individualized educational program are conducted. If the school disagrees with a district's individualized education program team [~~committee~~] recommendation that a student be evaluated for placement, initially placed, or continued to be placed at the school, the district or the school may seek resolution according to a procedure established by the commissioner or through any due process hearing to which the district or school is entitled under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

SECTION 31.  Section 30.057(a), Education Code, is amended to read as follows:

(a)  The Texas School for the Deaf shall provide services in accordance with Section 30.051 to any eligible student with a disability for whom the school is an appropriate placement if the student has been referred for admission:

(1)  by the school district in which the student resides under the student's individualized education program;

(2)  by the student's parent or legal guardian, or a person with legal authority to act in place of the parent or legal guardian, or the student, if the student is age 18 or older, at any time during the school year, if the referring person chooses the school as the appropriate placement for the student rather than the placement in the student's local or regional program recommended under the student's individualized education program; or

(3)  by the student's parent or legal guardian through the student's individualized education program team [~~admission, review, and dismissal~~] or individualized family service plan committee, as an initial referral to special education for students who are three years of age or younger.

SECTION 32.  Section 30A.007(b), Education Code, is amended to read as follows:

(b)  For purposes of a policy adopted under Subsection (a), the determination of whether or not an electronic course will meet the needs of a student with a disability shall be made by the student's individualized education program team [~~admission, review, and dismissal committee~~] in a manner consistent with state and federal law, including the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) and Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794).

SECTION 33.  Section 33.081(e), Education Code, is amended to read as follows:

(e)  Suspension of a student with a disability that significantly interferes with the student's ability to meet regular academic standards must be based on the student's failure to meet the requirements of the student's individualized education program. The determination of whether a disability significantly interferes with a student's ability to meet regular academic standards must be made by the student's individualized education program team [~~admission, review, and dismissal committee~~]. For purposes of this subsection, "student with a disability" means a student who is eligible for a district's special education program under Section 29.003(b).

SECTION 34.  Section 37.001(b-1), Education Code, is amended to read as follows:

(b-1)  The methods adopted under Subsection (a)(8) must provide that a student who is enrolled in a special education program under Subchapter A, Chapter 29, may not be disciplined for conduct prohibited in accordance with Subsection (a)(7) until an individualized education program team [~~admission, review, and dismissal committee~~] meeting has been held to review the conduct.

SECTION 35.  Sections 37.004(a) and (b), Education Code, are amended to read as follows:

(a)  The placement of a student with a disability who receives special education services may be made only by a duly constituted individualized education program team [~~admission, review, and dismissal committee~~].

(b)  Any disciplinary action regarding a student with a disability who receives special education services that would constitute a change in placement under federal law may be taken only after the student's individualized education program team [~~admission, review, and dismissal committee~~] conducts a manifestation determination review under 20 U.S.C. Section 1415(k)(4) and its subsequent amendments. Any disciplinary action regarding the student shall be determined in accordance with federal law and regulations, including laws or regulations requiring the provision of:

(1)  functional behavioral assessments;

(2)  positive behavioral interventions, strategies, and supports;

(3)  behavioral intervention plans; and

(4)  the manifestation determination review.

SECTION 36.  Section 37.105(e), Education Code, is amended to read as follows:

(e)  If a parent or guardian of a child enrolled in a school district is refused entry to the district's property under this section, the district shall accommodate the parent or guardian to ensure that the parent or guardian may participate in the child's individualized education program team [~~admission, review, and dismissal committee~~] or in the child's team established under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), in accordance with federal law.

SECTION 37.  Section 37.307(b), Education Code, is amended to read as follows:

(b)  The review under Section 37.306 of the placement of a student with a disability who receives special education services may be made only by a duly constituted individualized education program team [~~admission, review, and dismissal committee~~]. The individualized education program team [~~admission, review, and dismissal committee~~] may request that the board of trustees convene a committee described by Section 37.306(a) to assist the individualized education program team [~~admission, review, and dismissal committee~~] in conducting the review.

SECTION 38.  Sections 39.023(b), (c), and (d), Education Code, are amended to read as follows:

(b)  The agency shall develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to each student in a special education program under Subchapter A, Chapter 29, for whom an assessment instrument adopted under Subsection (a), even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's individualized education program team [~~admission, review, and dismissal committee~~], including assessment instruments approved by the commissioner that measure growth. The assessment instruments developed or adopted under this subsection, 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 under this subsection. The agency 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 individualized education program team [~~admission, review, and dismissal committee~~].

(c)  The agency shall also adopt end-of-course assessment instruments for secondary-level courses in Algebra I, biology, English I, English II, and United States history. The Algebra I end-of-course assessment instrument must be administered with the aid of technology, but may include one or more parts that prohibit the use of technology. The English I and English II end-of-course assessment instruments must each assess essential knowledge and skills in both reading and writing and must provide a single score. A school district shall comply with State Board of Education rules regarding administration of the assessment instruments listed in this subsection. If a student is in a special education program under Subchapter A, Chapter 29, the student's individualized education program team [~~admission, review, and dismissal committee~~] shall determine whether any allowable modification is necessary in administering to the student an assessment instrument required under this subsection. The State Board of Education shall administer the assessment instruments. An end-of-course assessment instrument may be administered in multiple parts over more than one day. The State Board of Education shall adopt a schedule for the administration of end-of-course assessment instruments that complies with the requirements of Subsection (c-3).

(d)  The commissioner may participate in multistate efforts to develop voluntary standardized end-of-course assessment instruments. The commissioner by rule may require a school district to administer an end-of-course assessment instrument developed through the multistate efforts. The individualized education program team [~~admission, review, and dismissal committee~~] of a student in a special education program under Subchapter A, Chapter 29, shall determine whether any allowable modification is necessary in administering to the student an end-of-course assessment instrument.

SECTION 39.  Section 39.025(a-4), Education Code, is amended to read as follows:

(a-4)  The individualized education program team [~~admission, review, and dismissal committee~~] of a student in a special education program under Subchapter A, Chapter 29, shall determine whether, to receive a high school diploma, the student is required to achieve satisfactory performance on end-of-course assessment instruments.

SECTION 40.  Section 661.906, Government Code, is amended to read as follows:

Sec. 661.906.  FOSTER PARENTS. A state employee who is a foster parent to a child under the conservatorship of the Department of Protective and Regulatory Services is entitled to a leave of absence without a deduction in salary for the purpose of attending:

(1)  meetings held by the Department of Protective and Regulatory Services regarding the child under the foster care of the employee; or

(2)  an individualized education program team [~~admission, review, and dismissal~~] meeting held by a school district regarding the child under the foster care of the employee.

SECTION 41.  Section 29.301(1), Education Code, is repealed.

SECTION 42.  This Act takes effect September 1, 2021.