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“Virtual” ARD Committee Meetings: Guidance & Best Practices

The COVID-19 pandemic has presented new challenges to school districts to not only provide instruction to students through virtual or other means, but also to comply with existing obligations under federal and state law regarding students with disabilities. The following guidance has been developed to assist Texas educators and administrators fulfill their obligations to conduct timely ARD Committee meetings for students with disabilities in the wake of the COVID-19 outbreak. As always, please do not hesitate to contact us with any specific questions that may arise.

ARD Committee meetings are still required.

To date, there has been no waiver for ARD Committee meetings nor any extensions of applicable timelines to conduct these meetings. As such, every effort must be made to ensure that ARD Committee meetings occur in a timely manner even during periods of extended closure. Districts should still attempt to complete annual ARDs, eligibility ARDs, 30-day transfer ARDs, and manifestation determination reviews within the applicable timeframes. In order to comply with the obligations to timely conduct ARD meetings, districts should consider alternatives to in-person meetings during the period the district is closed.

Conducting ARD meetings virtually or by other electronic means

The IDEA does not require in-person ARD Committee meetings, and the Office for Civil Rights has issued guidance explaining that in-person meetings are not required during extended periods of closure. Given the current health and safety concerns surrounding the COVID-19 outbreak, districts are turning to alternate methods of conducting ARD meetings such as teleconferencing and video conferencing.

Platforms such as Zoom, Google Hangout, and Skype provide video conferencing capabilities at no cost or low cost to users/subscribers. These may be viable options for holding ARD meetings via video conference depending on the participants' access to required technology. Districts should be mindful of the terms and conditions of any applicable use agreement associated with utilizing any such tool and should consider any applicable privacy issues prior to use.

For Committee members, including parents, who do not have access to technology required for video conferencing, participation via telephone must be allowed.

Best Practices for Virtual ARDs

- ☐ **Contact the parent to schedule the meeting at a mutually agreeable time.** At this time, discuss options for conducting the meeting with the parent. Determine the best method for the parent to participate and determine the date and time of the meeting.
- ☐ **Document attempts to secure parent participation *via* the alternative means.** If the parent does not agree to conducting the meeting *via* alternative means and requests postponing the meeting so that an in-person meeting can be held once the district reopens, send prior written notice to the parent noting the request and any noncompliance created by the request such as missed statutory deadlines.
- ☐ **Send required notices and documentation to the parent prior to the meeting.** Document the parent's agreement to conduct the ARD *via* alternative means and include the method of participation on the invitation, including any necessary instructions for parents. Also include the Notice of Procedural Safeguards and utilize means to document receipt, including use of read receipts through email, electronic signatures, and requests or the parent to return the signed receipt/invitation electronically. Also include any draft IEPs, BIPs, or other documents to be discussed at the ARD for the parent's consideration.
- ☐ **Confirm that all required consensus members will be in attendance prior to the ARD.** Ensure that all school-based Committee members have access to and can utilize technology required to participate *via* the selected method.
- ☐ **Develop norms for conducting virtual meetings.** In the norms, remind Committee members of their confidentiality obligations. Inform school-based Committee members to participate in a location where they can reasonably ensure the privacy of student information is protected. Also, include instructions for speaking individually in turn and any other expectations specific to a virtual meeting.
- ☐ **Provide the agenda and a copy of the norms for virtual meetings to all Committee members in advance, as well as any other necessary documents.**
- ☐ **Ensure the applicable technology is working properly before beginning the meeting.**
- ☐ **Record all meetings through video or audio to the extent possible.**
- ☐ **During the meeting, ensure that all members observe the norms for virtual meetings.** Emphasize that only one person should speak at a time. Speak slowly and ask Committee members to identify themselves before speaking. Ask if there are any questions before moving to the next agenda item.

- ☐ **Document in the deliberations the means by which the meeting was conducted and the parent's agreement to conduct the meeting in that manner.**
- ☐ **After assurances, obtain agreement or disagreement verbally in lieu of obtaining physical signatures. Expressly reference each item agreed/disagreed upon so that there is no confusion.** Explain this process to the parent and document the discussion in the deliberations. Indicate whether verbal agreement was provided on the signature page.
- ☐ **Following the ARD, ensure that necessary documentation is disseminated.** Provide the parent with a copy of the ARD report and document receipt. Distribute the IEP to each of the student's teachers and service providers electronically and document receipt through either read receipts or a confirmation email.