



SPECIAL EDUCATION ADVOCACY SKILLS

Disability Rights Texas

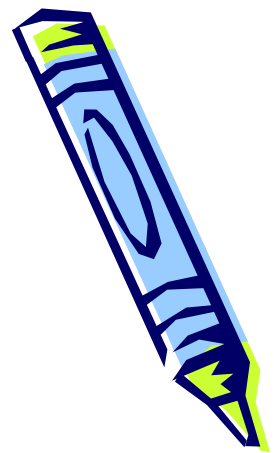
JULIA R. LONGORIA

And

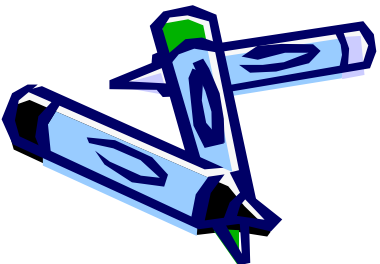
BRITTANY WHITTLE

Education Team Attorneys

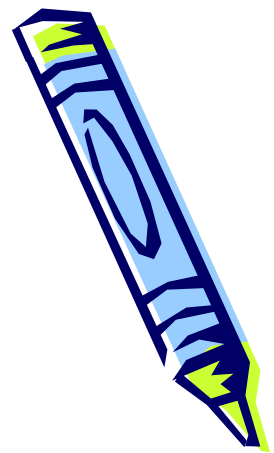
OVERVIEW OF LAWS RELATED TO SCHOOLS AND CHILDREN WITH DISABILITIES



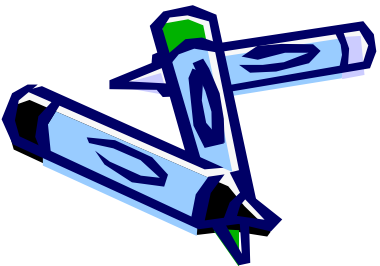
- Section 504 of the Rehabilitation Act of 1973—29 U.S.C. §§ 705(20) & 794; 34 C.F.R. Part 104
- Individuals with Disabilities Education Act (IDEA)—20 U.S.C. § 1401, *et. seq.*; 34 C.F.R. Part 300
- Texas Education Code § 25.001, *et. seq.*



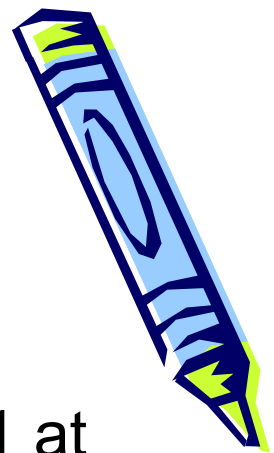
Vocabulary



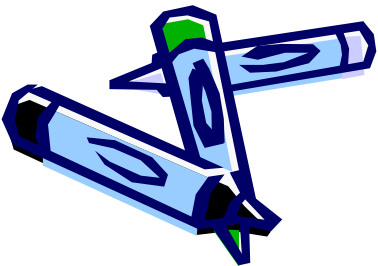
- FAPE: Free Appropriate Public Education
- LRE: Least Restrictive Environment
- IEP: Individual Education Plan
- ARD: Admission, Review and Dismissal



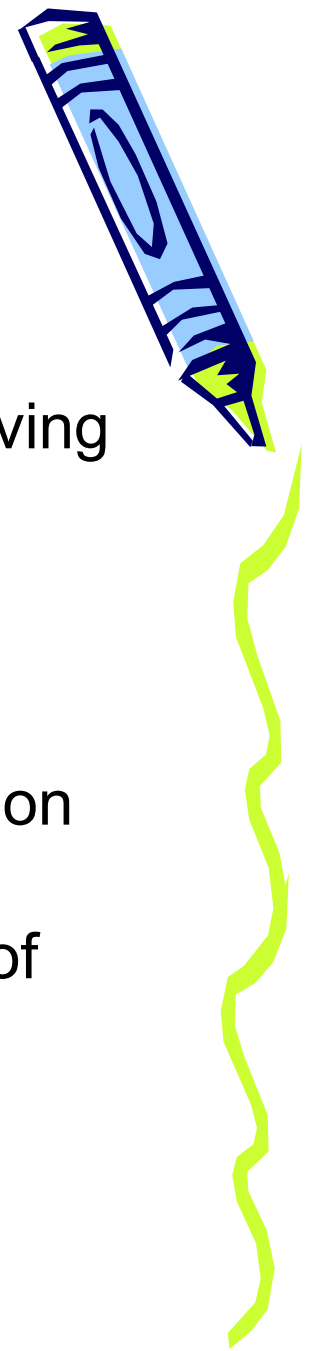
Free Appropriate Public Education



- Available to all students with disabilities age 3-21 at public expense
- Student must meet the definition of one or more of several enumerated disabilities and “by reason thereof” need special education and related services
- Services must be based on student’s unique individual needs and be designed to confer educational benefit



Initiating Services: Evaluations

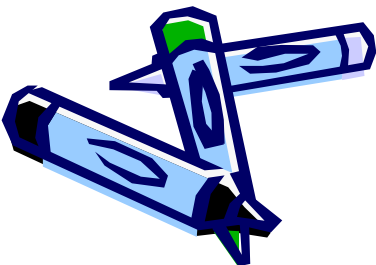


- Anyone can refer a child who is suspected of having a disability for a special education evaluation
- Make requests in writing-keep a copy for your records

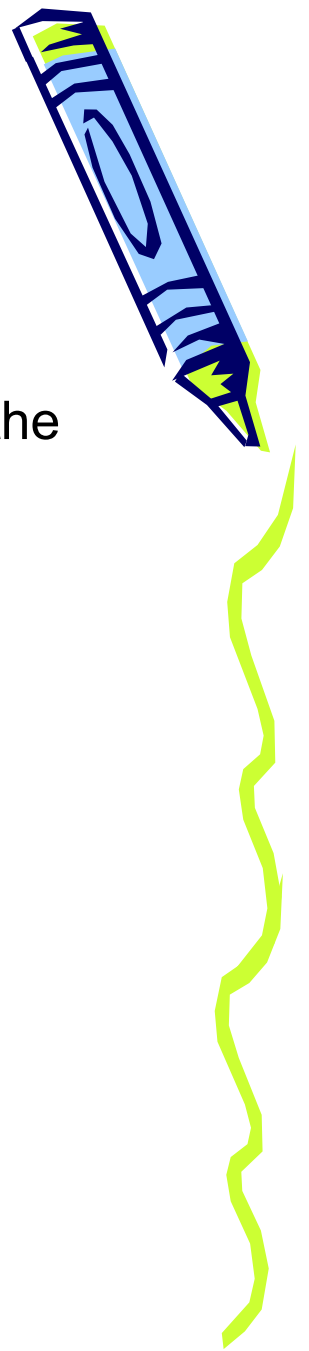
Timeline – School must respond to request within 15 school days and complete evaluation within 45 school days

Exception for evaluations requested at end of year

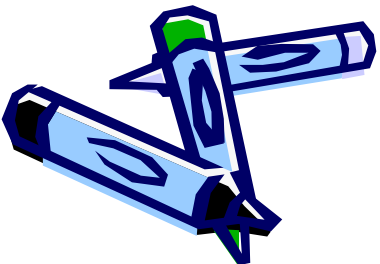
- Evaluations are reviewed in initial ARD



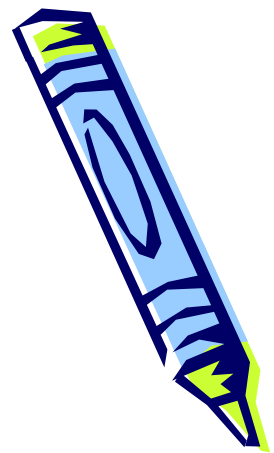
The ARD Committee



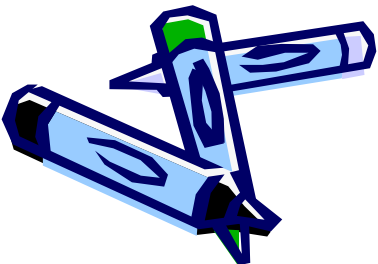
- Meets at least once a year to develop, review, and revise the student's Individualized Education Plan (IEP)
- Parent or school may request additional or more frequent meetings
- ARD Committee members (minimum):
 - parent and student, if appropriate
 - school district representative
 - at least one special education teacher
 - at least one general education teacher
 - someone who can interpret evaluations
 - others invited by parent, student or school



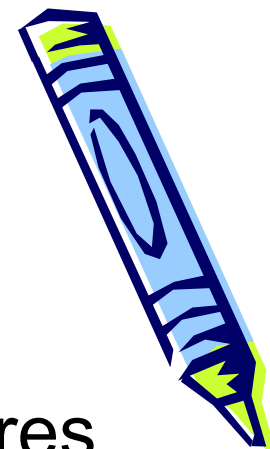
Individualized Education Program



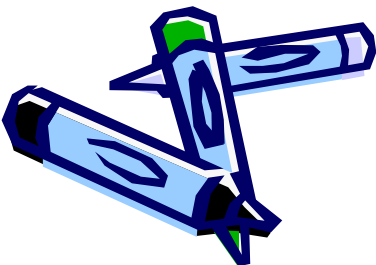
- A written plan setting forth the agreement between the parents and the school on how the student will be educated
 - Goals
 - Placement
 - Functional Behavioral Assessment (FBA) and Behavior Intervention Plan (BIP), if appropriate
 - Related Services
 - Transition Services (age 14 and older)
 - Supplements, if appropriate



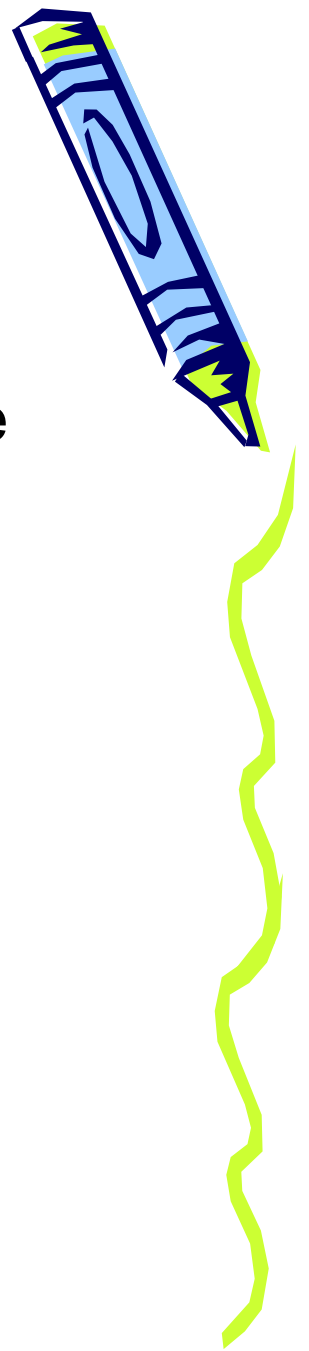
Eligibility



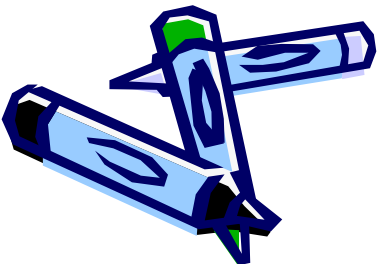
- Does the child have a disability that requires special education?
- Look to all areas in which the child may be eligible (example: ED and OHI)
- Eligibility does not determine services
- Right to disagree with ARD committee determination
- Services under Section 504



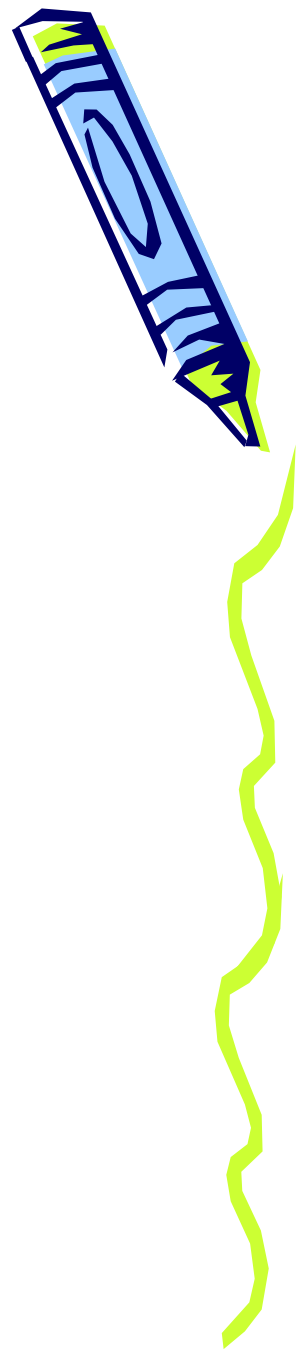
Preparing for the first meeting



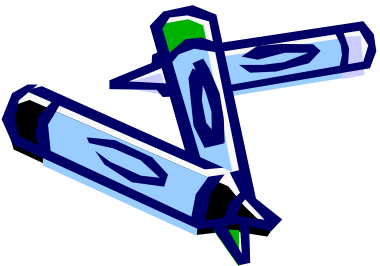
- Request and review copies of evaluations, grade reports, behavior logs, etc. prior to the meeting
- Invite private service providers or bring outside provider evaluation reports or letters
- Review the ARD meeting notice
 - What is the purpose of the meeting?
 - Has the school invited all necessary parties?
- Make a list of concerns/needs/desires
- Draft an ARD meeting agenda using list of concerns/needs/desires as a starting point



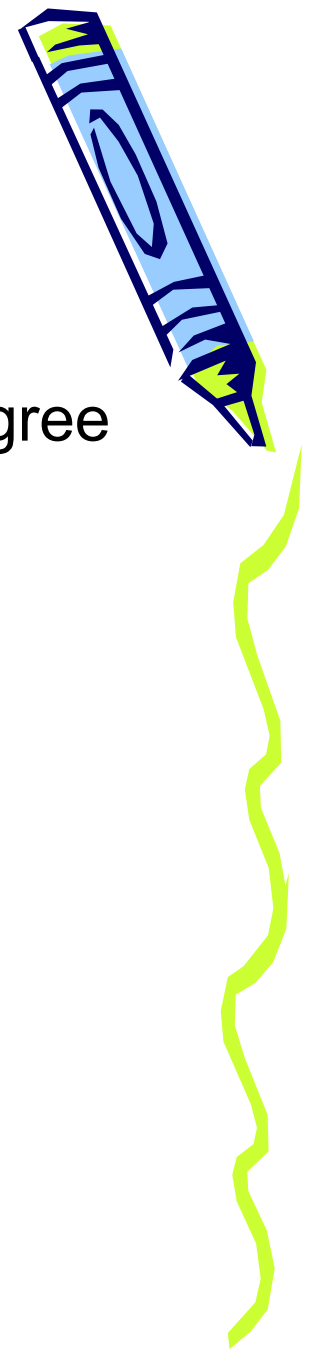
What can you ask for at an ARD meeting?



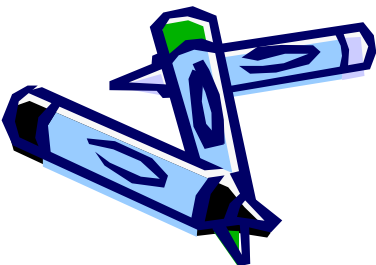
- Additional data collection
- Additional school based evaluations
- Independent Educational Evaluation (IEE)
- Functional Behavioral Assessment (FBA) and Behavior Intervention Plan (BIP)
- Different Placement
- Related Services
- Extended Year Services (ESY)
- Compensatory Education



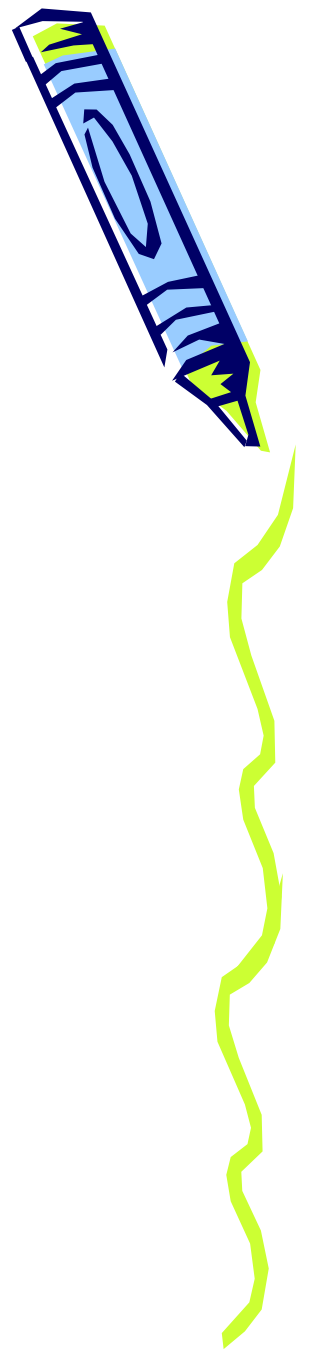
Independent Educational Evaluations (IEE)



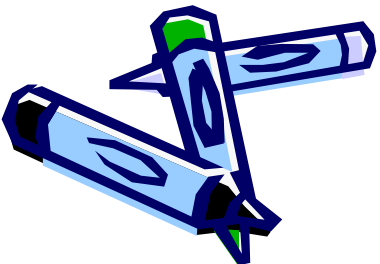
- Available at public expense to parents who disagree with an existing evaluation
- Steps to requesting an IEE:
 - Step 1: Check disagree
 - Step 2: Request an IEE
 - Step 3: Request criteria of evaluator
- Must meet “agency criteria” (i.e. location of evaluation, qualifications of examiner)
- Evaluation must be considered by the ARD committee



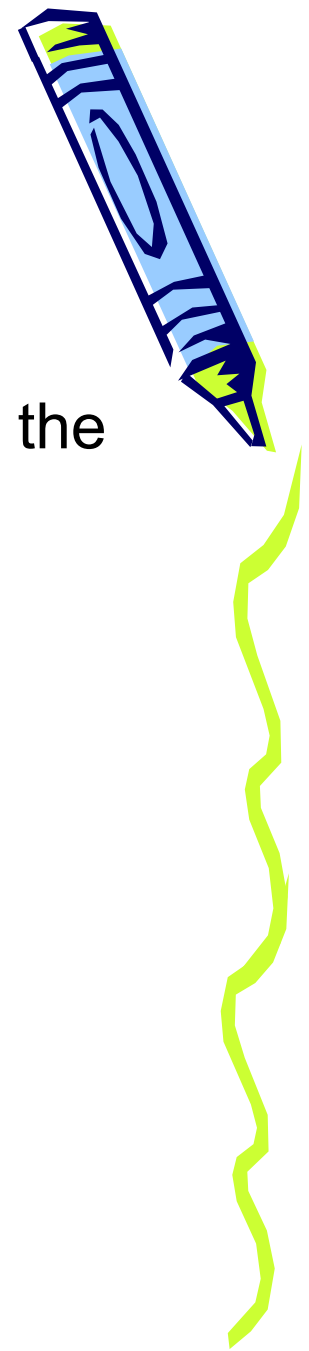
Writing the IEP



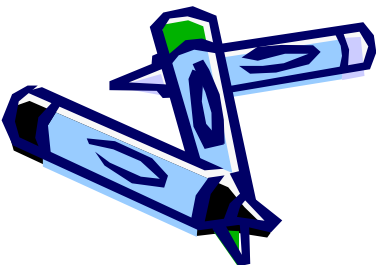
- Present Level of Performance
 - Measurable goals and objectives
- Should address all areas of concern
 - Academic
 - Behavioral
 - Social Skills
 - Transition
 - Cover all areas of need
 - ie. speech therapy, occupational therapy, assistive technology, transportation, extracurricular activities



Supplementary Aids and Services

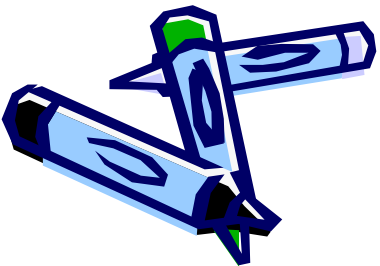
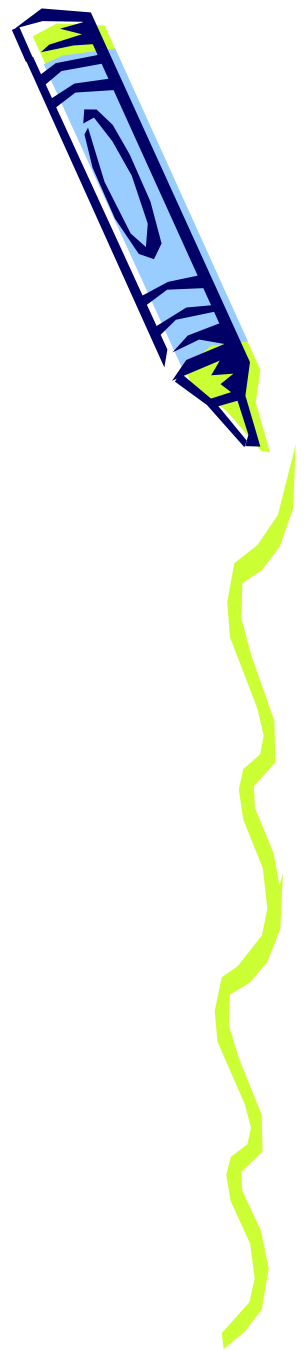


- What accommodations, services or supports will the child need to meet the goals defined in the IEP?
 - Assistive Technology
 - Accommodations
 - Therapies
 - Amount, location and duration
 - Who is responsible for providing each service
 - LRE

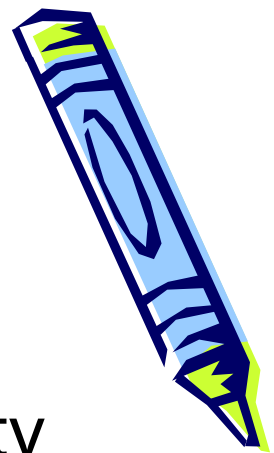


Other IEP Issues

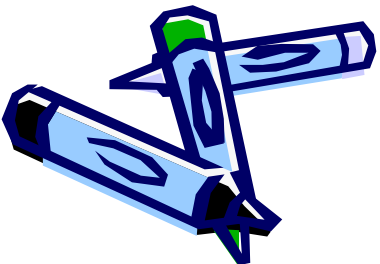
- Extended School Year
- Functional Behavioral Analysis and Behavior Intervention Plans
- Assistive Technology



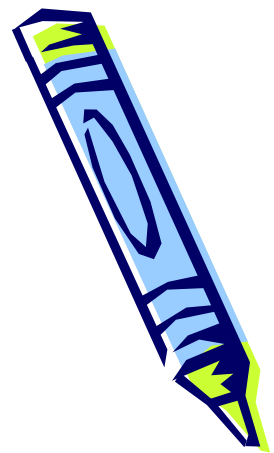
Placement/LRE



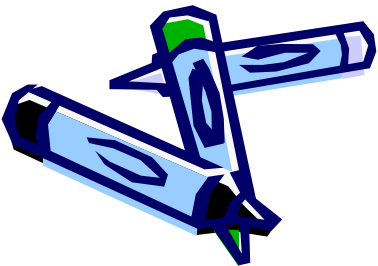
- Placement is not dependent upon eligibility
- Implementation of the IEP in the Least Restrictive Environment
 - Based on IEP goals and objectives
 - As close to child's home as possible
 - Where they would attend if not disabled when possible
 - With non-disabled children to the maximum extent possible



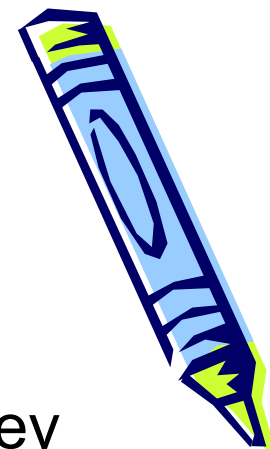
Steps to a Successful ARD: During the Meeting



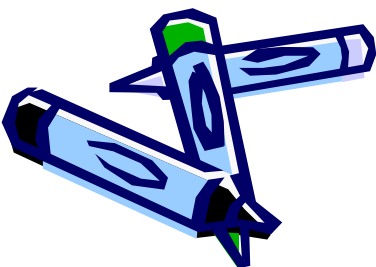
- Clearly state concerns/needs/wants and present any supporting documentation
- For each concern you raise:
 - What did the school agree to do?
 - What is the timeline?
 - Who is the responsible party/contact person?
 - What is the next step if services are refused?
- Set a timeframe to meet again, if necessary



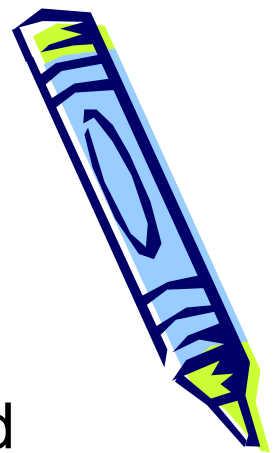
ARD Meeting Minutes



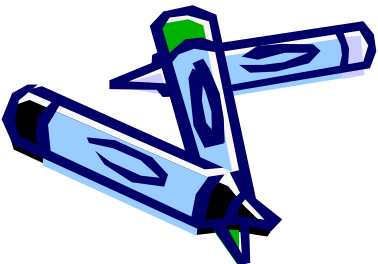
- Ask for someone to keep minutes and ensure they document proceedings accurately Review the minutes before you leave the meeting
- Submit an addendum after the meeting if the minutes are incorrect or something is missing
- Get a copy of the minutes for your records
- Submit statement of disagreement



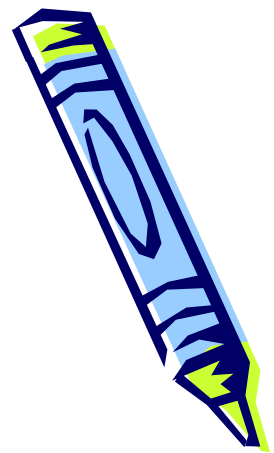
Disagreeing at ARD



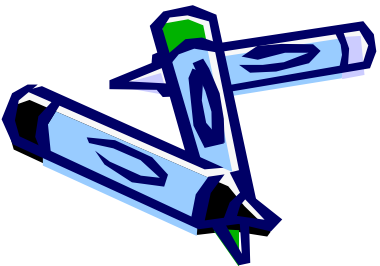
- Disagreeing with your child's current or proposed special education services is your right!
- Prepare a statement of disagreement
- Disagreement options:
 - Recess in lieu of ending in disagreement
 - Reconvene in 10 days (can be waived)
 - Can request to review the minutes and then decide to agree or disagree with proposed services
- School cannot withhold services until agreement is reached



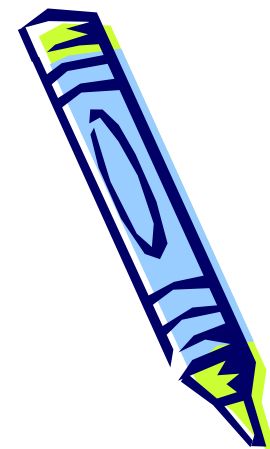
Discipline



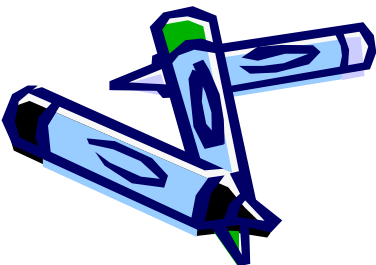
- School personnel may decide on a case by case basis whether to change a placement of a child who has violated the student code of conduct.
- Students may be removed for up to 10 days for violating a code of student conduct.



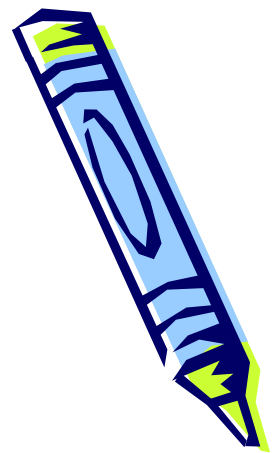
Discipline, cont.



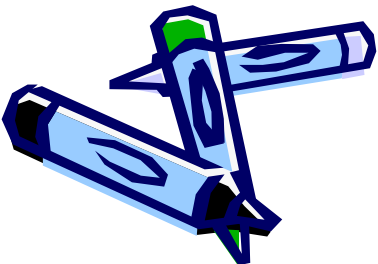
- School must still provide services in alternate placement
- Student must, “continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the child’s IEP.”
- All students who are removed must get services, “that are designed to address the behavior violation so that it does not recur.”



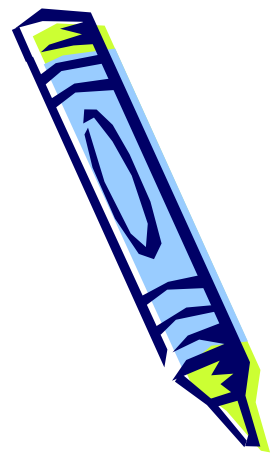
Manifestation Determination



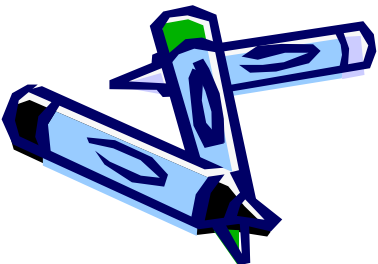
- Committee must decide if IEP was being implemented
- Whole IEP team not necessary, just “relevant members.”
- Only a manifestation if the conduct was a “direct result” of the school’s failure to implement the IEP or must be “caused by”
- Or have a “direct or substantial relationship to the disability.”



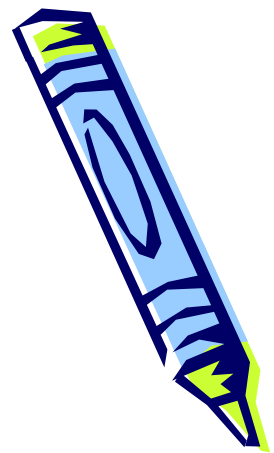
If there is a Manifestation



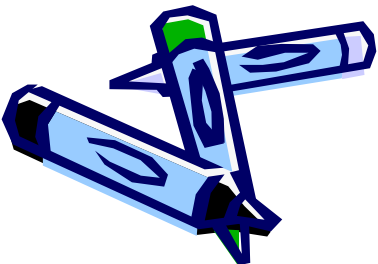
- The IEP team must:
- A) conduct an FBA, and implement a BIP;
- B) Return the child to his/her previous placement, unless the ARD Committee determines otherwise;
- School may utilize a 45 day IAES (interim alternative educational setting) for drugs, weapons, or serious bodily injury.



If there is not a Manifestation

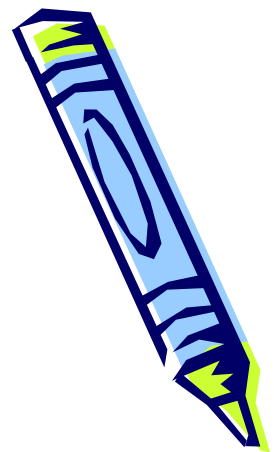


- The student remains in the IAES until an expedited hearing takes place
- Parent may request a due process hearing
- Expedited hearing must take place within 20 school days a due process request, and a decision must be made within 10 school days after the hearing
- School district may expel the student

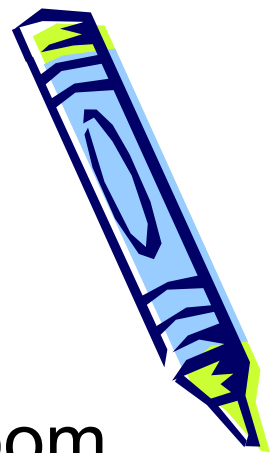


Resolving Disagreements

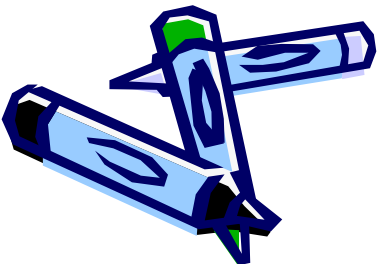
- ARD process
 - 10 day recess and reconvene
- IEP Facilitation
- Mediation
- TEA Complaint
- Due Process
- 1 year statute of limitations



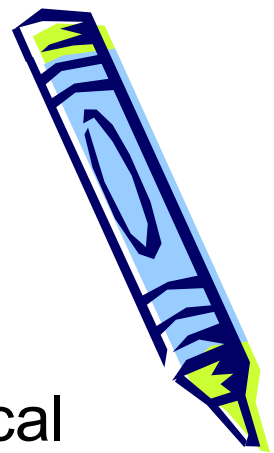
Seclusion and Restraint



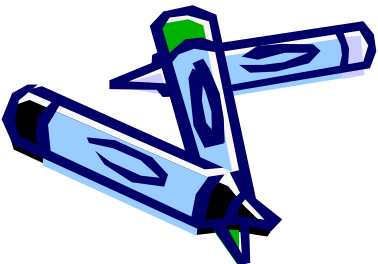
- Seclusion is placing a child in a special room or location alone and preventing the child from leaving by locking, blocking or barring the exit
- Seclusion is unlawful in Texas
 - Schools may use a “time-out” space that is not locked or otherwise barred from exit



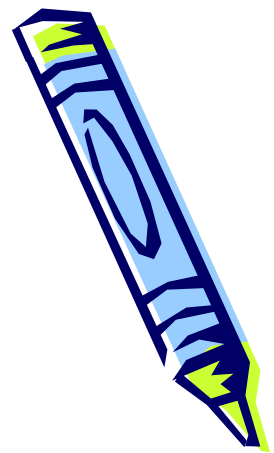
RESTRAINT



- Restraint may be mechanical, physical or chemical
 - Mechanical – chairs, ties, other device
 - Physical – holding arms, holding on ground
 - Chemical – through the use of medication
- Restraint may only be used where there is a threat of imminent, serious physical harm to the student or others or imminent serious property destruction
- Is an emergency measure, not a behavioral support
- Should NOT be written into an IEP or BIP



Disability Rights Texas



- 6800 Park Ten Blvd., Ste. 208 N, San Antonio, Texas 78213
- Phone: **210.737.0499** (V/TTY)
- Toll-free: **800.948.1824** (V/TDD)
- State-wide Intake: 1-800-252-9108
- Website: www.disabilityrightstx.org

The updated 2016 IDEA Manual is now available on the DRTx website!

