

**COMMISSIONER’S RULE RELATED TO AUTISM  
RULE/GUIDANCE SIDE-BY-SIDE**

TAC89.1055	<b>Commissioner’s Rule Related to Autism TAC 89.1055(e) Content of the Individualized Education Program (IEP)</b>	<b>Commissioner’s Rules Guidance – TAC 89.1055 Content of the Individualized Education Program (IEP)</b>
(e)	For students eligible under §89.1040(c)(1) of this title (relating to Eligibility Criteria), the strategies described in paragraphs (1)-(11) of this subsection shall be considered, based on peer-reviewed, research-based educational programming practices to the extent practicable and, when needed, addressed in the IEP	<p><b>For a student with autism who is eligible for special education and related services under 89.1040(c)(1), which of the 11 strategies should be included in the Individualized Education Program (IEP)?</b>            Schools must consider all eleven strategies in 89.1055(e) for students eligible under §89.1040(c)(1). Consideration of these strategies in no way implies a requirement to implement any particular strategy. It is the responsibility of the ARD committee to determine which of the strategies, if any, should be included in a student’s IEP. The emphasis an ARD committee places on each consideration should be contingent on the needs of the individual student. In order to make informed decisions regarding these strategies, ARD committees require accurate and detailed evaluations and/or up-to-date data from a variety of sources.</p> <p><b>What should schools do if unable to locate a peer-reviewed, research-based practice for a particular consideration?</b>            Schools are required to consider strategies based on peer reviewed, research-based educational practices to the extent practicable.</p>

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(e)(1)	<p>extended educational programming (for example: extended day and/or extended school year services that consider the duration of programs/settings based on assessment of behavior, social skills, communication, academics, and self-help skills);</p>	<p><b>What should an Admission, Review and Dismissal (ARD) committee consider when determining whether Extended School Year (ESY) services are appropriate?</b></p> <p>Extended educational programming (extended school day (ESD) or <a href="#">extended school year services</a>(ESY)) should be based on an assessment of individual student need. An ARD committee should consider a student’s functional communication system, which may require instruction and intervention beyond the normal school schedule. The same may be said for interpersonal and behavioral skills, based on an assessment of individual student need.</p> <p><b>What is the process for planning for ESY/ESD services?</b></p> <p>The need for ESY services must be documented from formal and/or informal evaluations provided by the district or the parents. If a student requires a significant amount of time to recoup acquired critical skills, then the ARD committee should discuss whether the student needs extended educational and/or related services during school breaks. 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. (<a href="#">TEA, 2014</a>).</p>

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		<p><b>What is the evaluation process for determining eligibility for ESY/ESD services?</b>            The evaluation process for eligibility determination must procedurally and substantively meet the requirements for eligibility outlined in the IDEA. The purpose of the evaluation is to determine eligibility and to determine the educational needs of the child [20 U.S.C § 1414(a)(1)(B)]. In conducting the evaluation, the district must use a <u>variety</u> of assessment tools and strategies, solicit information from the parent, and not use any single procedure as the sole criterion for eligibility determination (e.g. regression and recoupment analysis).            Regression-recoupment analysis alone may not show the variability of performance and thus, may not represent the “true” regression pattern.</p>
(e)(2)	<p>daily schedules reflecting minimal unstructured time and active engagement in learning activities (for example: lunch, snack, and recess periods that provide flexibility within routines; adapt to individual skill levels; and assist with schedule changes, such as changes involving substitute teachers and pep rallies);</p>	<p><b>What is the purpose of “daily schedules reflecting minimal unstructured time”?</b>            Students with ASD generally benefit from a regular routine; therefore, a daily schedule which lists activities in which the student is an active participant throughout the day as well as alternate schedules for exceptions to the regular routine (i.e. field trips, substitute teachers, programs, pep rallies, etc.) provides important information to the student and those who work with the student.</p> <p><b>What is meant by engagement?</b>            In this context, engagement refers to active involvement. For individual students it may be expressed differently and should be determined by the ARD Committee.</p>

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		<p><b>What is meant by unstructured time?</b>            Unstructured time in this context refers to those periods of the day that do not have instructional expectations or a defined routine for behavior. Students with ASD may engage in stereotypical and repetitive behaviors in less structured times of the day. Limiting unstructured time increases the chances for meaningful benefit from the school day.</p>
e)(3)	<p>in-home and community-based training or viable alternatives that assist the student with acquisition of social/behavioral skills (for example: strategies that facilitate maintenance and generalization of such skills from home to school, school to home, home to community, and school to community);</p>	<p><b>What is the purpose of in-home and community-based training?</b>            A student with ASD may have difficulty generalizing skills from one environment to another. In-home/community-based training is an option an ARD Committee may choose for a student with ASD in order for the student to learn or reinforce social skills in a variety of settings.</p> <p><b>What are considered “viable alternatives”?</b>            Viable alternatives are those strategies or methods that are practical and workable. These may include, if appropriate for the individual student, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Working with daycares, respite care, foster families, siblings, or grandparents</li> <li>• Parent observations at school, if allowed</li> <li>• Making a video of the teacher, if agreeable, working with the student</li> <li>• Helping parents obtain/make materials</li> <li>• Making a video of the child demonstrating the skills, if allowed</li> <li>• Schedules and manipulatives</li> <li>• School or outing visits to observe the child</li> </ul>

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		<p>using strategies</p> <ul style="list-style-type: none"> <li>• Articles related to strategies used with students along with examples of child specific materials</li> <li>• Visual supports for the home</li> <li>• Communication notebooks</li> <li>• Conferences regarding issues in the home</li> </ul> <p><b>Should all students with ASD be provided with in-home training?</b> In-home training must be considered by the ARD committee. Not every student with ASD may qualify for in-home training. The decision should be based on data provided by multiple sources (observation; IEP objectives; information from parents; educational staff, etc.; and/or checklists).</p> <p><b>What are the qualifications for an In-Home Trainer?</b> ARD Committees and districts make the determination as to who is qualified based on the needs of the student. Schools are responsible for training teachers and paraprofessionals to effectively implement programs for students with ASD. Training may include a foundation of scientifically-based interventions/strategies. Considerations may include the trainer’s knowledge about ASD and knowledge of specific interventions including implementation and data collection. Refer to the strategy “Professional Educator/Staff Support”, as this may also apply to an in-home trainer.</p>

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		<p><b>Is In-Home Training considered a direct- or indirect service?</b> In-home training may be either a direct- or indirect service, depending on how the ARD committee and LEA address the service.</p> <p><b>How and where is In-Home Training documented in the IEP?</b> LEAs may determine how and where to document in-home training in the IEP. When a folder review is conducted, the LEA may be cited because:</p> <ol style="list-style-type: none"> <li>1. In-home training is not included in the IEP even though the ARD Committee determined the service is needed, or</li> <li>2. In-home training is included in the IEP but is not being provided to the student in accordance with the IEP.</li> </ol> <p><b>How are goals addressed in the IEP?</b> Goals for in-home training should be based on annual goals that are addressed in the school setting. The ARD Committee may determine that the student needs in-home training in order to learn or reinforce skills in a variety of settings.</p> <p><b>How is In-Home Training coded in PEIMS?</b> There is no PEIMS code for in-home training.</p>
(e)(4)	<p>positive behavior support strategies based on relevant information, for example:</p> <p>A. antecedent manipulation, replacement behaviors, reinforcement strategies, and data-based decisions;</p>	<p><b>What is the meaning of “for example” in the phrase “positive behavior support strategies based on relevant information; for example...”?</b> The phrase “for example” is used to denote examples of potential strategies rather than a requirement to use</p>

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	<p>and</p> <p>B. a Behavior Intervention Plan developed from a Functional Behavioral Assessment that uses current data related to target behaviors and addresses behavioral programming across home, school, and community-based settings;</p>	<p>a specific methodology. The phrase also indicates that what follows are some of the specific strategies/processes that have been shown to be effective with individuals having an ASD, and that the examples are neither exhaustive nor mutually exclusive. While it is the responsibility of an ARD committee to make decisions regarding appropriateness of interventions based on the unique needs of an individual student, there is no one-size-fits-all approach to providing services to students with ASD. In many situations several intervention strategies may be implemented at the same time.</p> <p><b>Is a Functional Behavior Assessment (FBA) required before completing a Behavior Intervention Plan (BIP)?</b></p> <p>No, but the information from the FBA may provide valuable information for the formation of a BIP.</p> <p><b>Is parental consent required before completing the FBA?</b></p> <p>“If tan FBA is used to evaluate an individual child in accordance with 34 CFR §§300.304 through 300.311 to assist in determining whether the child is a child with a disability and the nature and extent of special education and related services that the child needs, it is considered an evaluation under Part B and the regulation at 34 CFR §300.15. Parental consent, consistent with 34 CFR §300.300(a) and (b), is required for an FBA conducted as an individual evaluation or reevaluation. If the FBA is conducted for individual evaluative purposes to develop or modify a</p>

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		<p>behavioral intervention plan for a particular child, under 34 CFR §300.502, a parent who disagrees with the child’s FBA would have the right to request an IEE at public expense.</p> <p>.. if the FBA is intended to assess the effectiveness of behavioral interventions in the school as a whole, the parental consent requirements in 34 CFR §300.300(a) and (c) generally would not be applicable to such an FBA because it would not be focused on the educational and behavioral needs of an individual child” (OSEP Letter to Christianson, February 2007).</p> <p>For more information, visit the Texas Behavior Support website at <a href="http://www.txbehaviorsupport.org">http://www.txbehaviorsupport.org</a></p>
(e)(5)	beginning at any age, consistent with subsections (g) of this section, futures planning for integrated living, work, community, and educational environments that considers skills necessary to function in current and post-secondary environments;	<p><b>What is meant by the term futures planning?</b> Futures planning refers to transition services, which generally begin by age 14, but may begin at an earlier age on an individual basis as determined by an ARD committee.</p> <p><b>What is the purpose of futures planning?</b> To empower students with the skills necessary to live in future environments with purpose and independence.</p> <p><b>When should futures planning begin?</b> When children enter the public school system, elements of self-advocacy such as making choices, solving problems, and managing their own behavior should begin immediately.</p> <p><b>How do futures planning and transition planning</b></p>



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		<p><b>mesh?</b> The futures planning information becomes a part of the Transition Plan when the student is 14 years old.</p> <p><b>What does Transition Planning involve?</b> Information from an age-appropriate transition assessment must be used to develop measurable postsecondary goals related to education/training, employment, and, where appropriate, independent living. The IEP must include transition services, including courses of study, needed to assist the child in reaching those goals.</p> <p>For more information, visit Transition in Texas at <a href="http://www.transitionintexas.org">http://www.transitionintexas.org</a></p>
(e)(6)	<p>parent/family training and support, provided by qualified personnel with experience in Autism Spectrum Disorders (ASD), that, for example:</p> <p style="padding-left: 40px;">A. provides a family with skills necessary for a child to succeed in the home/community setting;</p> <p style="padding-left: 40px;">B. includes information regarding resources (for example: parent support groups, workshops, videos, conferences, and materials designed to increase parent knowledge of specific teaching/management techniques related to the child's curriculum); and</p> <p style="padding-left: 40px;">C. facilitates parental carryover of in-home training (for example: strategies for behavior management and developing structured home environments and/or communication training so</p>	<p><b>What is the school’s responsibility for providing information and resources to parents/families of students with autism? (e)(6)(B)</b> A school should provide information regarding local resources available to parents/families of students with ASD. Some resources to consider are parent support groups, workshops, videos, conferences and materials designed to increase parent knowledge of specific teaching and/or management techniques related to the student’s IEP.</p> <p><b>What is the school’s responsibility regarding in-home training and communication training across all settings? (e)(6)(C)</b> Schools should offer parent training that fosters continuity across settings for a student with ASD. Training should focus on generalization of IEP-related</p>

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	<p>that parents are active participants in promoting the continuity of interventions across all settings);</p>	<p>skills and include areas such as behavior management, interpersonal skills, communication training and/or structured environments across all settings. An ARD committee may determine that in-home training should consist of a person with training in the area of disability meeting face-to-face with parents and/or the student. It may also determine that in-home training consists of a videotape made available for use by the family to teach/learn specific skills. An ARD committee should consider providing in-home training based on the individual needs of the student.</p> <p><b>What is the focus of parent/family training and support?</b> Parent training focuses on working with parents and/or families to help them acquire the skills and knowledge necessary to work with their child with ASD. This training and support may be provided in a variety of formats including, but not limited to, group training, individual training, and providing resources.</p>
(e)(7)	<p>activities and as needed to achieve social/behavioral progress based on the child's developmental and learning level (acquisition, fluency, maintenance, generalization) that encourages work towards individual independence as determined by, for example: A. adaptive behavior evaluation results; B. behavioral accommodation needs across settings; and C. transitions within the school day;</p>	<p><b>What is the staff-to-student ratio for students with autism?</b> Staff-to-student ratios are determined by ARD Committees on an individual basis. When determining staff-to-student ratios, an ARD committee should consider the setting, a student’s communication abilities, and present levels of competence in each area of instruction.</p> <p><b>What is meant by the student’s learning level?</b> The student may be in one of four learning levels: acquisition, fluency, maintenance, and generalization.</p>

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		<p>Acquisition is considered Level 1 learning. In acquisition, the student is beginning the learning process; s/he is introduced to new skills and behaviors. During this level, significant assistance should be provided and a high rate of reinforcement is necessary. The goal of acquisition is to establish a desired response/behavior.</p> <p>Fluency is considered Level 2 learning. Fluency refers to the rate at which a response occurs. During fluency, assistance begins to decrease and reinforcement is given only for demonstrating the response within a designated period of time. The goal of fluency is to establish a rate of responding that would be considered ‘normal’ for the student’s age and skill level.</p> <p>Maintenance is Level 3 learning. In maintenance, a response occurs in the absence of teaching. Adding reinforcement is no longer necessary for achieving independence. The goal of the maintenance level is to maintain responses/behaviors over time.</p> <p>Generalization is Level 4 learning. In this level, a response occurs with different people, using different materials in a variety of locations. The student is able to follow different directions. The goal of the generalization level is to</p>

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		<p style="text-align: center;">achieve independence.</p> <p>Typically, a student in the acquisition phase of development may need more direct intensive instruction relative to later phases. As a student moves through the phases, there should be less adult supervision, more self-monitoring and therefore, a higher staff to student ratio.</p> <p><b>Is it possible for a child to be on one level in one activity and another level in another activity?</b> Yes, they may be in the acquisition level in decoding and the fluency level in letter recognitions, for example.</p>
(e)(8)	communication interventions, including language forms and functions that enhance effective communication across settings (for example: augmentative, incidental, and naturalistic teaching);	<p><b>What types of communication strategies should teachers consider for students with autism?</b> Teachers may wish to consider strategies such as augmentative, incidental, and naturalistic communication interventions, including language forms and functions that enhance effective communication across settings.</p> <p>Teachers should also consider a student’s style of learning and the portability of a communication strategy.</p> <p><b>Are communication interventions limited to speech-language pathologists (SLP)?</b> No, communication interventions may be addressed in a variety of environments and with a variety of people, including parents, teachers, siblings, peers, etc.</p>

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		<p><b>Should ARD Committees consider assistive technology for students with ASD?</b> The ARD Committee must consider whether the student needs assistive technology devices and services.</p>
(e)(9)	social skills supports and strategies based on social skills assessment/curriculum and provided across settings (for example: trained peer facilitators (e.g., circle of friends), video modeling, social stories, and role playing);	<p><b>What types of social skills supports should teachers consider for students with autism?</b> Teachers may wish to consider social skills supports such as trained peer facilitators, video modeling, social narratives, or peer modeling. The decision on what strategies and supports to implement should be individualized for each student and their unique needs.</p> <p><b>Who provides social skills supports and strategies?</b> Teachers, speech-language pathologists, related service providers, any other person routinely interacting with the student in the school setting, peers, parents, and siblings may provide social skills supports and strategies on a daily basis through modeling or a variety of other strategies.</p>
(e)(10)	professional educator/staff support (for example: training provided to personnel who work with the student to assure the correct implementation of techniques and strategies described in the IEP); and	<p><b>Will schools provide training for personnel working with students with autism?</b> Schools are responsible for training teachers and paraprofessionals to effectively implement programs for students with ASD. Training may include a foundation of scientifically-based interventions/strategies.</p> <p><b>Who are professional educators and staff?</b> Professional educators/staff may be any paid employee of the LEA.</p>

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		<p><b>Which professional educators and staff need training in peer-reviewed, research-based educational programming practices specific to ASD?</b> Any LEA personnel who work with a student with ASD may be provided training to assure the implementation of techniques and strategies described in the IEP.</p> <p><b>Will LEAs provide training for personnel working with students with ASD?</b> It is the LEA’s responsibility to train, or ensure, that professional educators and staff are trained in evidence-based practices specific to ASD.</p> <p><b>May/Must the training be student specific?</b> Training may be general to address techniques and strategies needed to implement the IEP, such as Standard’s Based IEP Training, or it may be specific, such as how to develop a behavior intervention plan for a student.</p> <p><b>How much training is required?</b> LEAs make the determination on the amount of training based on need.</p> <p><b>Do individuals working with students with ASD need a specific certification or license?</b> No.</p> <p><b>Is it necessary to document the training a professional has received related to ASD?</b> It is best practice to keep documentation on all</p>

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		<p>professional development. Staff development may include online training, face-to-face training, conferences, webinars, books, scholarly journals, etc. Consultation and coaching for staff may also be documented as training.</p>
(e)(11)	<p>Teaching strategies based on peer reviewed, research-based practices for students with ASD (for example: those associated with discrete-trial training, visual supports, applied behavior analysis, structured learning, augmentative communication, or social skills training).</p>	<p><b>What is meant by the phrase “teaching strategies based on peer reviewed, research-based practices for students with ASD”?</b>            Strategies listed in TAC 89.1055(e)(11) are among the many available instructional options an ARD Committee may wish to consider when developing an IEP. The inclusion of a strategy in TAC 89.1055(e)(11) should not be misinterpreted as an endorsement of any particular methodology. Examples of such strategies may include discrete-trial training, visual supports, applied behavior analysis, structured learning, augmentative communication or social skills training. While it is the responsibility of an ARD committee to make decisions regarding appropriateness of strategies based on the unique needs of an individual student, there is no one-size-fits-all approach to providing services to students with autism.</p> <p><b>What is the definition of peer-reviewed and research-based?</b>            Section 9101(37) of the Elementary and Secondary Education Act, as amended by No Child Left Behind, defines scientifically-based research as “research that involves the application of rigorous, systematic, and objective procedures to obtain reliable and valid knowledge relevant to education activities and</p>

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		<p>programs” (NCLB, 2002).</p> <p><b>If a strategy is not effective, what are alternatives for an ARD Committee?</b>            If progress is not being documented, some options that may be considered include providing a longer day or year, additional staff or parent training, modifying existing interventions, or changing interventions. This decision is made by the ARD Committee.</p>
(f)	<p>If the ARD committee determines that services are not needed in one or more of the areas specified in subsection (e)(1)-(11) of this section, the IEP must include a statement to that effect and the basis upon which the determination was made.</p>	<p><b>What action must the ARD committee take if the committee determines services are not needed in one or more of the areas specified in TAC 89.1055(e)?</b>            When the ARD committee determines that services are not needed in one or more of the areas specified in 89.1055(e)(1)-(11), the ARD committee must include in the IEP a statement indicating that the services are not needed and the basis upon which the determination was made. The statement may address the services collectively or individually. An ARD committee may wish to include specific examples of a student’s current level of competency when addressing services.</p>