



**Special Education Complaint Investigative Report
October 30, 2015**

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Local Educational Agency (LEA): Houston ISD Co-Dist: 101-912
FY: 2014-2015
Complaint: 201510718

To the Individuals Addressed:

The attached report to the LEA is the written decision of the Texas Education Agency (TEA) regarding the above-referenced complaint.

In accordance with the Family Educational Rights and Privacy Act (FERPA), TEA is providing a redacted copy of the investigative report to the complainants. Student Three is an adult student, and the complainants were not able to secure a signed consent from Student Three permitting TEA to provide his/her personally identifiable information to the complainants. Therefore, TEA has redacted Student Three's personally identifiable information from the copy of the report provided to the complainants.

Allegations, Conclusions, and Reasons for TEA's Decision

TEA investigated the following allegations.

Allegation One: Did Student One's and Student Two's attendance issues during the 2014-2015 school year warrant the need for reevaluations, and, if so, did the LEA conduct the reevaluations? [34 CFR §300.303]

Allegation Two: Did the LEA ensure that the three students' individualized education programs (IEPs) were developed, reviewed, and/or revised to address their attendance issues between June 1, 2014, and June 1, 2015? [34 CFR §300.324]

Allegation Three: Did the LEA ensure that any changes in placement with regard to Student Two and Student Three during the 2014-2015 school year were made by a properly constituted admission, review, and dismissal (ARD) committee? [34 CFR §300.116] [19 TAC §89.1050(a)(6)]

Allegation Four: Did the LEA make a free appropriate public education available to Student Two and Student Three after they were administratively withdrawn from the LEA on February 2, 2015? [34 CFR §300.101]

The following noncompliance was determined.

The LEA does not always ensure that it reevaluates students in accordance with 34 CFR §300.303.

The LEA does not always develop, review, and revise students' IEPs in accordance with 34 CFR §300.324.

The LEA does not always ensure that students' placements are made by properly constituted ARD committee meetings in accordance with 34 CFR §300.116.

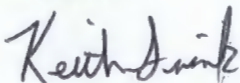
The LEA does not always ensure that it makes a free appropriate public education available to students in accordance with 34 CFR §300.101.

Corrective actions were required.

If a party to a complaint believes that TEA's written report includes an error that is material to the determination in the report, the party may submit a signed, written request for reconsideration to TEA by mail, hand-delivery, or facsimile within 15 calendar days of the date of the report. The party's reconsideration request must identify the asserted error and include any documentation to support the claim. The party filing a reconsideration request must forward a copy of the request to the other party at the same time that the request is filed with TEA. The other party may respond to the reconsideration request within five calendar days of the date on which TEA received the request. TEA will consider the reconsideration request and provide a written response to the parties within 45 calendar days of receipt of the request. The filing of a reconsideration request must not delay a public education agency's implementation of any corrective actions required by TEA.

This concludes TEA's investigation. The investigative report is TEA's final written decision. Questions regarding this letter or the attached report may be directed to Ron Roberts or to me at (512) 463-9414.

Respectfully,



Keith Swink
Division of Federal and State Education Policy

Enclosure: satisfaction survey

Houston ISD Co-Dist: 101-912

FY: 2014-2015

Complaint: 201510718

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cc:

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This report is the written decision of the Texas Education Agency (TEA) regarding the third-party complaint filed on behalf of multiple students, three of whom attended the Houston Independent School District (ISD), herein referred to as the local educational agency (LEA), during the 2014-2015 school year. The complaint alleges violations of federal and state special education laws and the implementing regulations pertaining to the Individuals with Disabilities Education Act (IDEA), Texas Education Code (TEC), and/or the Texas Administrative Code (TAC).

The specific allegations and TEA's findings of fact and conclusions, together with the reasons for TEA's final decision, are as follows.

Allegation One

Did Student One's and Student Two's attendance issues during the 2014-2015 school year warrant the need for reevaluations, and, if so, did the LEA conduct the reevaluations? [34 CFR §300.303]

Allegation Two

Did the LEA ensure that the three students' individualized education programs (IEPs) were developed, reviewed, and/or revised to address their attendance issues between June 1, 2014, and June 1, 2015? [34 CFR §300.324]

Allegation Three

Did the LEA ensure that any changes in placement with regard to Student Two and Student Three during the 2014-2015 school year were made by a properly constituted admission, review, and dismissal (ARD) committee? [34 CFR §300.116]

Allegation Four

Did the LEA make a free appropriate public education (FAPE) available to Student Two and Student Three after they were administratively withdrawn from the LEA on February 2, 2015? [34 CFR §300.101]

Statement of the Complaint

The complaint, which TEA received on June 1, 2015, alleges that the LEA failed to reevaluate Students One and Two to identify the causes of their attendance issues. The complaint further alleges that all three students' ARD committees failed to address the students' attendance issues in their IEPs and, therefore, failed to provide the students with appropriate special education and related services. Finally, the complaint alleges that the LEA administratively withdrew Students Two and Three for excessive absences without involving the students' ARD committees and then failed to provide them with a FAPE.

Findings of Fact

Student One

1. The student was determined eligible for special education services in 2005. The student was reevaluated by the LEA in 2008 and by another school district in 2011. The student's 2008 and 2011 reevaluations do not reflect that the student had attendance issues.

2. During the 2014-2015 school year, the student attended an LEA high school and was classified as a 10th grader.
3. The first day of the LEA's 2014-2015 school year was August 25, 2014. The student's attendance records reflect that the student attended all classes during the first week of the school year and began missing classes during the second week.
4. The first six-week grading period ended on October 2, 2015. The student received five Cs and one F.
5. The student's progress report for the period ending on October 24, 2014, reflects that the student had failing grades in five classes and no grade for one class.
6. The student's ARD committee met on October 29, 2014, primarily because the student's triennial reevaluation was due. After reviewing the student's existing data, the ARD committee determined that no additional evaluations were required and that the student continued to qualify for special education services on the basis of having a learning disability.
7. The student's IEP dated October 29, 2014, reflects that the student:
 - demonstrates cognitive processing deficits that affect his/her reading, math, and written expression;
 - took the modified versions of the state assessments in grades 5, 6, 7, and 9 and failed the reading and writing portions of the 7th grade assessment and all 9th grade assessments;¹ and
 - reads significantly below grade level.
8. The IEP states that the student's parent is very concerned about the student's lack of reading skills.
9. The IEP contains three annual goals – one for reading/English language arts, one for geometry, and one for transition. The IEP reflects that a general education teacher will implement the academic goals and that special education and general education teachers will implement the transition goal.
10. The IEP contains conflicting information regarding the student's educational program and placement.
11. Page 7 of the IEP reflects that the student's curriculum will be modified and that the student will receive instruction in a resource classroom for 70 minutes daily.
12. The schedule of services on page 13 reflects that the student will take general education classes in the general education setting and will receive in-class support in some classes. Specifically, the IEP reflects that the student will receive in-class support in history and physics during the first semester and in English during the second semester. The IEP reflects that the student will receive support facilitation in geometry during the second semester.
13. According to the LEA, "in-class support" is a direct service, and "support facilitation" is an indirect or consultative service.
14. A document provided by the LEA reflects that in-class support services and support facilitation services must be documented in the "Related Services/Other Instructional Services" section of an IEP and that the frequency, duration, and location of the services must be included. The document also indicates that a description of the specific supports to be provided must also be included.
15. The IEP does not include information about the in-class support services and support facilitation services in the "Related Services/Other Instructional Services" section.

¹The record reflects that the student lived in another school district when s/he was in 8th grade and that the current LEA does not have the student's 8th grade state assessment results.

The IEP also does not include the frequency and duration of the services or a description of the services.

16. Page 14 of the IEP reflects that the student will receive Content Mastery for science and social students for 30 minutes twice per week in a special education setting.
17. Page 16 of the student's IEP reflects that the student is removed from the general education setting and explains the justifications for the removal as follows:

The efforts to modify [the student's] participation in the general ed setting were not sufficient because of his/her significant deficits in reading comprehension, basic reading skills, math and written expression which require numerous accommodations for him/her to be successful.

[The student] will not receive an educational benefit from full inclusion in the general ed setting due to the cognitive deficits in all areas which significantly affect his/her academics in all areas. S/he requires extensive accommodations to allow him/her to be successful.

[The student] struggles in all inclusive Gen Ed setting as evidenced by his/her grades and teacher reports. S/he tries very hard and is usually attentive, but s/he has been unsuccessful in meeting grade level [Texas Essential Knowledge and Skills (TEKS)] in social studies and math. S/he is very uncomfortable and sometimes feels inadequate in General Ed classrooms.

18. Page 17 of the IEP reflects that the student's instructional setting is "Mainstream with Direct, Indirect, and/or Support Services" and lists "40" as the instructional arrangement code.
19. Page 18 of the IEP reflects that the student spends six hours in general education and zero hours in special education per day.
20. The IEP reflects that the student does not exhibit significant behavioral challenges that affect his/her educational performance or the learning of others. The IEP does not include any behavioral goals or a behavioral intervention plan. The IEP states that the student is pleasant and generally cooperative.
21. The October 2014 ARD committee meeting was held approximately 45 days into the 2014-2015 school year. The student's attendance records reflect that the student had 10 absences for state reporting purposes, seven of which were unexcused. The records further reflect that the student had a significant number of unexcused absences in some classes. For example, the student had 21 unexcused absences in Spanish, 12 unexcused absences in history, and eight unexcused absences in geometry. There were only 13 days during this period when the student attended all of his/her classes.
22. The ARD committee did not address the student's attendance issues in the IEP.
23. Although the student's most recent progress report reflected that the student had failing grades in five out of six classes, the IEP states that the student's teachers reported that the student "is performing adequately in the current circumstances." The IEP also states that the student "is making adequate progress in his/her courses."
24. On November 3, 2014, the LEA sent a truancy notice to the student's parents.
25. The first semester of the 2014-2015 school year ended on December 19, 2014. The student passed an elective, received failing grades in two core content courses, and did not receive grades in three courses due to excessive unexcused absences.

26. On January 27, 2015, the LEA sent a second truancy notice to the student's parents.
27. On February 5, 2015, the special education department chair sent the student's teachers an email stating that the student would be receiving pullout services to provide him/her with more support. The email states that the student will report to each assigned class so that s/he will not be marked absent and then go to his/her support classes. The email reflects that four teachers will provide the student with pullout services throughout the school day.
28. The LEA's response to the complaint states that the student's attendance issues began in mid-November. The response further states:

On February 5, a group of teachers met and devised an attendance intervention plan. ARD/IEP meeting was held on March 2, 2015 to implement [the] plan.

29. The student's ARD committee met on March 2, 2015, to address the student's absenteeism and its effects on his/her educational progress.
30. The IEP dated March, 2, 2015, reflects that the student has missed 60 days of school and will need to repeat several core courses due to failing grades or nonattendance.
31. The IEP reflects that the student's parent expressed concerns about the student's reading level.
32. The IEP states that the student is generally cooperative but "currently appears ambivalent about doing well academically."
33. The IEP states that the student's "disabilities affect his/her motivation to attend and participate in class which leads to poor academic performance."
34. The ARD committee again determined that student does not exhibit significant behavioral challenges and did not develop any behavioral goals or a behavioral intervention plan to address the student's attendance issues.
35. The statements in the October 2014 IEP indicating that the student receives modified curriculum and instruction in a special education setting are not included in the revised IEP.
36. The ARD committee adjusted the dates in the student's annual goals but did not significantly revise the goals.
37. Like the October 2104 IEP, the revised IEP contains conflicting information regarding the student's educational program and placement.
38. The schedule of services was revised to provide in-class support in all core courses, additional accommodations, and an accelerated instruction program due to the student's failure to pass the end-of-course assessments s/he had taken. Like the previous IEP, the revised IEP does not details about the in-class support services that the student will receive.
39. The instructional setting and instructional arrangement code were not changed from those in the previous IEP. The revised IEP, however, reflects that the student will spend 7.5 hours in general education and zero hours in special education per day.
40. The IEP notes that after the previous ARD committee meeting, campus staff revised the student's schedule to attend pullout tutorial sessions, provided the student with one-on-one tutoring, and provided the student extra materials in core content areas.
41. The IEP reflects that the student agreed to follow the attendance rules and states that the student will check in with his/her regular education teachers at the start of every class and then go to his/her "pullout tutor teacher or [PLATO] teacher."
42. The IEP reflects that the student will be evaluated for dyslexia and Attention Deficit Disorders, but does not include a timeline for the evaluations.

43. On March 2, 2015, the special education department chair sent a special education teacher an email requesting that the teacher set up PLATO for the student in English III, physics, geometry, and U.S. history.
44. On March 9, 2015, the special education department chair sent the student's teachers another email stating that the student should not be marked absent and will check in with them, pick up his/her assignments, and then report to his/her support classes.
45. The LEA's response to the complaint states that the student initially checked in with his/her teachers before going to his/her support classes, but later had difficulties following the plan. The LEA's response further states that the student would go straight to a special education resource class, and his/her regular education teachers marked him/her absent.
46. For the second semester of the 2014-2015 school year, the student received failing grades in five classes. The student did not receive a grade in one class due to excessive unexcused absences.
47. A campus administrator provided a statement explaining the procedures for addressing attendance issues. According to the administrator, the campus has a committee that monitors students' attendance, but the committee did not distinguish between students who receive special education services and those that do not. Therefore, the special education department was not directly advised of attendance problems relating to students who receive special education services. The administrator states that "a good faith effort will be made to ensure that special education students with [attendance] issues will be appropriately identified to address their needs within the ARD process" beginning with the 2015-2016 school year.
48. The student's ARD committee met on July 1, 2015, to discuss the allegations raised in this complaint. The IEP reflects that an attorney representing the student's parent requested a full evaluation of the student, including a psychological evaluation and a functional behavioral assessment. The IEP reflects that the ARD committee agreed to conduct a full reevaluation, including a counseling evaluation, before September 30, 2015. The ARD committee agreed to reconvene after the student's reevaluation is completed.
49. During the July 2015 ARD meeting, the student's parent stated that the student "does not want to attend school because s/he is frustrated due to not being able to read."
50. The ARD committee agreed to allow the student to take final exams for some of his/her 2014-2015 courses at the beginning of the 2015-2016 school year and to provide tutoring to the student before the exams. LEA staff advised the student's parent that the student's attendance records would be corrected to reflect the student's attendance when s/he was in the resource room.
51. The ARD committee offered to provide the student with 77 hours of compensatory reading instruction before or after school or on Saturdays.
52. The LEA provided a reevaluation report dated October 9, 2015. The report states that the student would "benefit from a functional behavioral analysis regarding his/her skipping and absences, and if necessary, an assessment for counseling as a related service." The report further states that the student's behavior impedes his/her learning.
53. The reevaluation report reflects the following:
 - the student's basic reading skills are in the extremely low range of ability at an elementary grade level equivalent;

- the student's math calculation skills are in the extremely low range of ability for his/her age and grade;
 - the student's spelling and writing skills are significantly below grade level;
 - the student displays academic deficits in all academic areas and is functioning more than three grade levels below his/her grade level;
 - the student meets the criteria for a specific learning disability in basic reading, reading comprehension, math calculation, math reasoning, and written expression; and
 - the student meets the criterial for dyslexia identification.
54. The reevaluation report reflects that the student missed 47 days during the 2013-2014 school year and 94 days during the 2014-2015 school year. The report includes recommendations for addressing the student's attendance issues and problems with completing assignments.
55. The LEA provided a revised IEP dated October 9, 2015.
56. The IEP includes the three annual goals that were in the two previous IEPs and two new annual goals relating to U.S. government and environmental systems.
57. The IEP reflects that the student is expected to graduate in 2016.
58. Page 7 of the current IEP reflects that the student will have "personal care services" to prevent "behavior." It further states that the student "will have available the services of in-class support facilitation as needed" and that "special ed staff which includes co-teachers and case managers" will monitor the student's progress and behavior. The record does not indicate that the student requires personal care services (e.g., toileting, feeding, etc.).
59. The IEP contains a *Behavior Support and Intervention Plan* (BSIP). The BSIP reflects the following:
- the student's parent explained that the student skips class because s/he cannot read and is embarrassed to participate in class;
 - the student works after school and stated that this also contributes to his/her reporting to school late;
 - the student's inability to read causes him/her to become frustrated; and
 - the student has already missed 18 days of the 2015-2016 school year.
60. The BSIP seeks to address the student's absentee behavior and his/her anxiety and frustration when given difficult assignments in class. To prevent these behaviors, teachers are to implement the student's IEP accommodations, and the student will receive psychological services to increase his/her coping strategies.
61. The IEP reflects that the student will receive psychological services for 30 minutes every two weeks.
62. The schedule of services in the IEP reflects that the student will take all core courses in the regular education setting and will receive in-class support. The IEP does not reflect that the course curriculum will be modified.
63. The IEP reflects that tutoring in U.S. history will be available one time per week for 50 minutes in the general education setting and that Content Mastery for science and social studies will be provided for two times per week for 30 minutes in a special education setting.

64. Page 20 of the IEP reflects that the student will receive an educational benefit from full inclusion in the general education setting but that the ARD committee recommends that the student *not* receive all instruction and services in the general education setting.
65. The IEP reflects that the student's instructional setting is "Mainstream with Direct, Indirect, and/or Support Services" and lists "40" as the instructional arrangement code.
66. Page 22 of the IEP reflects that the student spends 7.5 hours in general education and zero hours in special education per day.
67. The IEP reflects that the student declined after-school compensatory reading services due to his/her work schedule.
68. The IEP reflects that campus staff advised the student's parent that the student will not be able to graduate at the end of the school year and that the student and the parent want the student to graduate with his/her classmates. Campus staff advised the parent that the student received a "No Grade" in four classes due to excessive absences and that an attendance appeal must be filed to receive credit for those courses.
69. The IEP reflects that the student's parent disagreed with the IEP "due to the required attendance appeal, credit recovery plan, amount of counseling services, inability of not having accommodation to have a cool down place, [and] goals not reflecting areas of weakness."

Student Two

1. The student is diagnosed with severe attention deficit hyperactivity disorder (ADHD) and is eligible for special education services under the category of other health impairment (OHI).
2. The student's most recent evaluation was conducted in May 2012, when the student was in 8th grade. The evaluation reflects that the student has difficulty maintaining alertness in the general education setting and is below grade level in reading, writing, and math. The evaluation also reflects that the student is generally well-behaved and does not exhibit behaviors that impede learning. The evaluation states that the student "almost always attends."
3. Though the student entered high school during the 2012-2013 school year, s/he was technically still a 9th grader at the beginning of the 2014-2015 school year because s/he had only earned 2.5 course credits. The student's academic achievement record reflects that the student was denied credit for all classes during the 2012-2013 school year due to excessive absences and that s/he failed several classes during the 2013-2014 school year.
4. The LEA filed a truancy complaint against the student toward the end of the 2013-2014 school year.
5. The 2014-2015 school year began on August 24, 2014. Documentation in the record reflects that the student's campus followed a "block schedule" whereby the students had eight classes and attended four classes on "A" days and the other four classes on "B" days. It appears that each class period was approximately 90 minutes long.
6. The first six-week grading period ended on October 2, 2014. The student failed five classes, barely passed three classes, and was absent from each class anywhere from two to nine times.
7. On October 2, 2014, the LEA sent the student's parent a truancy warning letter.
8. The student's ARD committee conducted an annual review of the student's IEP on October 17, 2014. The IEP reflects that the student:

- has difficulty maintaining alertness in the general education setting;
 - is functioning at a deficit in reading, math, and written expression;
 - exhibits significant behavioral challenges that adversely affect his/her educational performance or the learning of others;
 - took the accommodated version of the state assessment in 7th grade and did not meet the passing standards in reading, writing, or math;
 - took the modified version of the state assessment in 8th grade;²
 - has failed the end-of-course exams that s/he has taken.
9. The IEP and another document in the record reflect that student took the Stanford Achievement Test during the 2011-2012 school year (8th grade) and received the following scores: reading 5.7; math 5.1, language 5.2, science 4.6, social studies 5.3; spelling 4.6; and total battery 4.6. These appear to be grade equivalent (GE) scores. Therefore, when the student was in the 8th grade, s/he received a reading score equivalent to what a student in the seventh month of 5th grade would receive.
 10. The IEP reflects that the student requires short-term objectives because s/he requires modifications and accommodations to instruction, assignments, and assessments to demonstrate progress in the grade-level curriculum.
 11. The IEP includes annual goals for English, algebra, "all academic areas," transition, and behavior.
 12. Page 9 of the IEP includes a "Supplementary Aids and Personal Care Services" section that reflects that the student will receive "Instructional Accommodations-Personnel" for five sessions per two weeks of 90 minutes in the general education setting. This section also reflects that the student will receive "Instructional Modifications-Personnel" for five sessions per two weeks of 90 minutes in the general education setting. No provider for these services is listed, and there is no description of the services. The evidence in the record does not indicate that the student requires personal care services.
 13. The schedule of services in the IEP lists "General Education" as the only subject and reflects that the student will receive 75 minutes of general education three times per week in the general education setting with support facilitation during the first semester but not during the second semester. Given that the length of the student's classes are 90 minutes, it is unclear why the schedule of services states that the student will receive general education for 75 minutes.
 14. Page 20 of the IEP reflects that the ARD committee recommends that the student receive all instruction and services in the general education setting.
 15. The student's instructional setting is listed as "Mainstream with Direct, Indirect, and/or Support Services" and the instructional arrangement code is listed as "40."
 16. Page 22 of the IEP reflects that the student will spend six hours in general education and zero hours in special education per day.
 17. The "Related Services/Other Instructional Services" section of an IEP does not describe the support facilitation services that the student will receive during the first semester. The section reflects that the student will receive tutorials for reading, math, and written expression for 60 minutes four times per week in the general education setting and will receive "More time on task Power Period" for 45 minutes five times

²The IEP included the student's scores on the modified 8th grade state assessment, but did not state whether the student passed or failed each portion. It appears that the student passed the reading portion and failed the math and science portions. The student received a borderline score on the social studies portion, and whether s/he passed depends on the form that was administered, which was not indicated in the IEP.

per week in the general education setting. The IEP does not describe what "More time on task Power Period" is.

18. The ARD committee determined that no additional evaluations were needed.
19. The IEP includes a BSIP that appears to have been developed during the 2012-2013 school year and then updated in October 2013.
20. The BSIP reflects that the student previously had 14 disciplinary referrals for various types of misconduct. A comment from the October 2013 ARD committee meeting reflects that that the student was not demonstrating these behaviors at the time of the meeting. There is no statement regarding whether the student had any disciplinary referrals or was exhibiting any of these behaviors when the ARD committee met in October 2014.
21. The BSIP reflects that the student previously had 13 excused absences and 9 unexcused absences, including 7 days of suspension. A comment from the October 2013 ARD committee meeting reflects that the student only had one absence at the time of the meeting. There is no statement regarding the student's attendance for the 2014-2015 school year; however, the student's attendance records reflect that the student had 16 state reported unexcused absences at the time of the October 2014 meeting.
22. The BSIP lists the student's challenging behaviors as follows: being off task; not completing assignments; being unprepared; being disruptive inside and outside the classroom; tardiness; truancy; leaving the assigned area; noncompliance; negative verbalization; and verbal aggression.
23. The BSIP addresses two of the student's challenging behaviors: being off task in class and leaving the assigned area. With regard to the latter, the BSIP states that the student "leaves his/her assigned areas without permission or staff supervision two or more times during a regular school day." The BSIP includes the following "prevention" measures to address this behavior:

With a Behavior Support Plan and the appropriate modification implemented by a collaboration between the general education teacher and the special education teacher [the student] will attend all classes as scheduled and enter the classroom on time with materials 90% of the time. S/he will also attend to the directives of the classroom teacher with no more than two redirects.

24. The BSIP does not include any specific strategies to increase the student's attendance.
25. The BSIP incorrectly states that the student's last evaluation was conducted in May 2013. *See Finding of Fact No. 2 for Student Two.*
26. The IEP does not reflect that the ARD committee discussed the fact that the student had only earned 2.5 course credits.
27. The second six-week grading period of the 2014-2015 school year ended on November 7. The student failed five classes, barely passed two classes, did not receive a grade in one class, and was absent from each class anywhere from 5 to 13 times.
28. On November 18, 2014, the LEA filed a truancy complaint against the student.
29. The LEA submitted only one progress report for the student. The progress report corresponds to the period from November 10 to November 25, 2014, and reflects that the student was failing seven classes and did not receive a grade for one class. Two teachers commented that absences were affecting the student's grades.

30. At the end of the first semester of the 2014-2015 school year, the student failed seven classes, did not receive a grade in one class, and did not earn any course credits. The student's absences per class for the semester ranged from 16 to 29. A majority of the absences were unexcused.
31. On January 21, 2015, the student and the student's parent attended a truancy hearing. An *Order Suspending Sentence and Deferring Final Disposition* signed by the presiding judge reflects that the student was ordered to enroll in a general educational development (GED) program and to present proof of such enrollment at a hearing on March 18, 2015. The student was further ordered to attend school with no unexcused absences until s/he enrolled in a GED program.
32. On January 27, 2015, the LEA sent the student's parent another truancy warning letter.
33. The LEA truancy officer who filed the truancy complaint against the student and attended the truancy hearing provided a statement asserting that she did not recommend that the student enroll in a GED program.
34. On February 2, 2015, the campus principal sent the student's parent a letter stating that the student had been administratively withdrawn due to excessive absences in accordance with the LEA's *Board Policy FEA (Local)*, which states that the LEA may withdraw a student under the age of 18 if the student has been absent 10 consecutive school days and repeated efforts by the attendance officer or principal have been unsuccessful.
35. The *HISD Guide to Attendance Procedures & Policies – Attendance Improvement and Truancy Reduction* includes the following statement on page 21 relating to students withdrawn under the *LEA's Board Policy FEA (Local)*:

Students withdrawn under this policy may not be denied re-enrollment as long as they meet the regular eligibility requirements.

36. A document titled *Dropout Recovery Form* reflects that campus staff made three phone calls to the family's last known phone number between February 6 and March 9, 2015, but were unable to reach anyone. The form also reflects campus staff searched the state enrollment database multiple times during the second semester of the 2014-2015 school year to determine if the student had enrolled in another school district, and those searches indicated that s/he had not.
37. Documentation reflects that on April 13, 2015, the student's parent advised the LEA that the student had enrolled in one of the LEA's alternative schools. However, the student's enrollment record and no other evidence reflect that the student in fact attended the alternative school.
38. Documentation reflects that on May 4, 2015, the student's parent informed an LEA staff member that the student's whereabouts were unknown.
39. The campus has a Dropout Recovery and Intervention Program (DRIP) committee that meets weekly to develop interventions for students who are referred to the committee due to attendance policy violations. The campus principal's statement reflects that in the case of a student who receives special education services, the DRIP committee is supposed to consult with the special education department chair and the student's case manager. The statement further reflects that an ARD committee meeting should be held to address the student's attendance issues.
40. The principal's statement and the LEA's response to the complaint reflect that the student was not referred to the DRIP committee before a truancy complaint was filed or before the student was administratively withdrawn.
41. The LEA's response to the complaint includes the following statement:

Students with disabilities who have been administratively removed due to failure to attend school can either reenroll in their zoned schools and participate in regular programming or Grad Labs, or they can enroll in one of HISD's alternative programs that specifically work with students who have dropped out or are in danger of dropping out. Any decisions made for students with disabilities are to be reviewed and determined by the ARD-IEP Committee.

42. The LEA's response to the complaint reflects that campus staff did not refer the student's attendance issues to the ARD committee and that an ARD committee meeting was not held to address the student's attendance issues. The response further states:

Student Two was denied a Free Appropriate Public Education and is due compensatory educational services. An ARD-IEP Committee will be convened to develop a plan for the provision of compensatory educational services to Student Two. The ARD-IEP Committee will consider the need to conduct an additional evaluation or re-evaluation of Student Two.

Student Three

1. The student is diagnosed with [REDACTED].
2. The student entered [REDACTED] grade during the [REDACTED] school year, but lacked the course credits to graduate with his/her classmates at the end of the [REDACTED] school year.
3. The LEA filed multiple truancy complaints against the student during the 2013-2014 school year.
4. The student turned [REDACTED] at the end of the [REDACTED] school year.
5. The 2014-2015 school year began on August 24, 2014. The student reenrolled at an LEA campus and was classified [REDACTED].
6. The student's ARD committee met on [REDACTED], to conduct an annual review of the IEP.
7. The IEP reflects that the student:
 - has difficulty with [REDACTED];
 - [REDACTED]
 - took the [REDACTED] and [REDACTED] and [REDACTED] and [REDACTED].
8. In some places, the IEP lists the date of the student's last evaluation as [REDACTED], and in other places it lists it as [REDACTED].
9. The IEP contains an academic goal for all areas and a transition goal.
10. [REDACTED] of the IEP includes a "Supplementary Aids and Personal Care Services" section that reflects that the student will receive [REDACTED] [REDACTED] for [REDACTED] in the general education setting. This section also reflects that the student will receive [REDACTED] [REDACTED] for [REDACTED] in the general education setting. No provider for these services is listed, and there is no

description of the services. The evidence in the record does not indicate that the student requires personal care services.

11. [REDACTED] of the IEP reflects that the student's parent is concerned about the student's attendance and the adverse effect that it has on the student's grades.
12. The IEP does not include any behavioral goals or a BSIP.
13. The "Related Services/Other Instructional Services" section of an IEP reflects that the student will receive "[REDACTED]" for [REDACTED] [REDACTED] in the general education setting. The IEP does not describe what [REDACTED]
14. [REDACTED] of the IEP reflects that the student will not receive an educational benefit from full inclusion in the general education setting and requires [REDACTED] in a [REDACTED]. However, further down the page, the IEP reflects that the student will receive all instruction in the general education setting and lists the student's instructional setting and instructional arrangement code as [REDACTED]
15. [REDACTED] of the IEP reflects that the student will spend [REDACTED]
16. The ARD committee reviewed the student's first progress report and noted that s/he was passing [REDACTED] and failing [REDACTED]. The progress report does not include grades for [REDACTED].
17. The IEP reflects that the student has earned [REDACTED] and needs [REDACTED]. The IEP further reflects that the student was denied credit for multiple classes due to excessive absences and will need to go through the attendance appeals process.
18. Documentation reflects that the student successfully appealed some of the credit denials and was awarded three additional credits.
19. The IEP reflects that the student will graduation under the [REDACTED] plan because s/he [REDACTED]
20. The first six-week grading period ended on October 2, 2014. The student had passing grades in [REDACTED]. The student's absences per class ranged from [REDACTED], and most of the absences were [REDACTED]
21. The student's second progress report reflects that the student was passing [REDACTED] and failing [REDACTED]. One teacher commented that the student's [REDACTED]
22. The second six-week grading period ended on November 7, 2014. The student again passed [REDACTED] classes. The student's had [REDACTED] absences per class, and most of the absences were [REDACTED]
23. The student's third progress report reflects that the student was passing [REDACTED] and failing [REDACTED]. One teacher commented that [REDACTED]
24. The third grading period and the first semester ended on December 19, 2014. The student [REDACTED]. During the third grading period, the student had [REDACTED] unexcused absences per class.
25. On January [REDACTED], 2015, the LEA sent the student's parent a truancy letter. The letter reflects that the student had [REDACTED] state reported absences between [REDACTED]
26. On February [REDACTED], 2015, the campus principal sent the student's parent a letter stating that the student had been administratively withdrawn in accordance with the LEA's *Board Policy FEA (Legal)*, which states that the LEA may revoke the enrollment of a person who enrolls after [REDACTED] if the person has more than five unexcused absences in a semester.

27. The *HISD Guide to Attendance Procedures & Policies – Attendance Improvement and Truancy Reduction* states as follows on page 21:

Similar to the decision to file truancy charges against students receiving Special Education services, the determination to withdraw an adult Special Education student for non-attendance should take into consideration if the non-attendance is related to the student's disability as determined by the ARD/IEP committee and if such a withdrawal will prohibit the full implementation of the student's IEP. This type of withdrawal is change in education setting and constitutes a campus decision to cease providing a Free Appropriate Public Education (FAPE). Although, an accumulated five unexcused absences may not necessarily meet the definitions of truancy (3 unexcused absences in 4 weeks; or 10 in 6 months), a referral should be made to the ARD/IEP committee before administrative action is taken.

28. The student's ARD committee was not consulted before the student was administratively withdrawn.
29. On [REDACTED], the student enrolled in one of the LEA's [REDACTED] that requires four hours of daily attendance and offers online courses.
30. On [REDACTED], the alternative school staff convened an ARD committee for the student.
31. The IEP reflects that the student had attended school for [REDACTED] days and had [REDACTED] absences.
32. The ARD committee developed two new annual goals for the student and discontinued the goals that were in place when the student was enrolled at the regular campus. One goal relates to [REDACTED], and the other relates to [REDACTED]. Both goals were to be implemented by a general education teacher.
33. The IEP reflects that the student does not [REDACTED] and [REDACTED].
34. The IEP reflects that the student will take [REDACTED] with accommodations.
35. The IEP reflects that the student will receive [REDACTED] setting and will receive "[REDACTED]" in the general education setting.
36. The student [REDACTED] on or about [REDACTED].
37. The LEA's response to the complaint states that the [REDACTED] staff attempted to schedule an ARD committee meeting for the student to further [REDACTED].
38. The LEA's response further states that an ARD committee meeting "will be conducted to consider FAPE, [REDACTED] between the student's enrollment at [REDACTED] and a placement ARD-IEP meeting." The response also states that a reevaluation to support the student's post-secondary goals and services will be recommended.

Conclusions and Reasons for TEA's Final Decision for Allegation One

Authority: 34 CFR §300.303

34 CFR §300.303 requires an LEA to ensure that a reevaluation of each student with a disability is conducted in accordance with 34 CFR §§300.304 through 300.311 if the LEA determines that the educational or related services needs, including improved academic achievement and functional performance, of the student warrant a reevaluation or if the student's parent or teacher requests a reevaluation. A reevaluation conducted under paragraph (a) of this section may occur not more than once a year, unless the parent and the LEA agree otherwise and must occur at least once every 3 years, unless the parent and the LEA agree that a reevaluation is unnecessary.

In the case of a student with chronic absenteeism, an LEA may need to reevaluate the student in order to properly address the matter in the IEP.³ In this report, "chronic absenteeism" refers to excessive absences during the school year for any reason while "truancy" refers to a certain number or certain frequency of unexcused absences. In Texas, chronic absenteeism generally refers to a student who is absent for 10 percent or more of the days a class is offered.⁴ Thus, a student who is absent 18 or more times during a 180-day school year is considered chronically absent. Truant conduct is defined as failing to attend school without an excuse on 10 or more days or parts of days within a six-month period in the same school year.⁵ Chronic absenteeism can involve many factors, including an undiagnosed disability, emotional disturbance, academic difficulties, bullying, home problems, social maladjustment, drug problems, economic issues, and even boredom.

TEA concludes that the LEA should have initiated a reevaluation of both Student One and Student Two during the 2014-2015 school year. With regard to Student One, the student's ARD committee met on October 29, 2014, because the student's triennial reevaluation was due. Although the student had excessive absences and failing grades at the time, the ARD committee did not address these issues. When the ARD committee met on March 2, 2015, to address the student's chronic absenteeism and low academic performance, it noted that the student's attitude toward school had changed and that the student's disabilities affected his/her motivation to attend and participate in school. Nevertheless, the ARD committee failed to refer the student for an evaluation. The students' 2008 and 2011 reevaluations do not indicate that the student had attendance issues. Therefore, the ARD committee needed new data to appropriately address the student's attendance issues. While the LEA ultimately reevaluated the student at the beginning of the current school year in an attempt to resolve the issues in this complaint, its failure to reevaluate the student during the 2014-2015 school year caused educational harm to the student.

When Student Two's ARD committee met in October 2014 to conduct an annual review of the student's IEP, the student was skipping classes, had accumulated 16 state reported unexcused absences, and was failing five out of eight classes. Despite all this, the ARD committee did not address the student's attendance issues. Although the ARD

³See *West Lyon Cmty. Sch. Dist.*, SE-311, 48 IDELR 232 (SEA IA 2007) (Noting that the student attended only three full days and seven half days of school between August and March, the hearing officer concluded that the LEA should have conducted a psychological evaluation and revised the student's IEP.).

⁴See TEX. EDUC. CODE §25.092 (generally provides that a student may not be given credit or a final grade for a class unless the student is in attendance for at least 90 percent of the days the class is offered).

⁵See TEX. FAM. CODE §65.003(a).

committee kept the student's BSIP in the IEP, the BSIP does not include specific strategies designed to improve the student's attendance. Evidence in the record reflects that the student has exhibited attendance problems off and on since entering high school but has never been referred for an evaluation to determine the underlying reasons for his/her absenteeism. The change in the student's attendance since his/her last annual ARD committee meeting and the student's low academic performance should have triggered a reevaluation of the student.

Allegation One is substantiated.

Conclusions and Reasons for TEA's Final Decision for Allegation Two

Authority: 34 CFR §300.324

34 CFR §300.324 requires that, in developing each student's IEP, the ARD committee consider the strengths of the student, the concerns of the parents for enhancing the education of their student, the results of the initial or most recent evaluation of the student, and the academic, developmental, and functional needs of the student. The ARD committee must in the case of a student whose behavior impedes the student's learning or that of others, consider the use of positive behavioral interventions and supports, and other strategies, to address that behavior. The LEA must ensure that the ARD committee reviews the student's IEP periodically, but not less than annually, to determine whether the annual goals for the student are being achieved and revise the IEP, as appropriate, to address any lack of expected progress toward the annual goals. For a student who is eligible under IDEA and whose chronic absenteeism adversely affects learning, the duty to address the absences in the IEP may exist regardless of whether they stem from a disability.⁶

TEA concludes that the LEA failed to appropriately address attendance in all three students' IEPs. With regard to Student One, the ARD committee did not address his/her attendance issues when it met on October 29, 2014, even though the student had excessive absences and failing grades at the time. Three months later, someone finally noticed a problem, and several teachers met outside of the ARD committee process to develop an "attendance intervention plan" for the student. A month later, the student's ARD committee met to essentially approve the plan that had already been put in place. The IEP that resulted from this meeting is both deficient and confusing. First and foremost, the IEP does not implement any interventions to address the student's absentee behavior. It does not include any behavioral goals, a behavior intervention plan, or any counseling or psychological services. Second, the educational program in the IEP seems inconsistent with the student's educational profile. The student reads at an elementary school level, has deficits in all academic areas, and has historically

⁶See *Larimer County Sch. Dist., Poudre*, 2013: 502, 113 LRP 17986 (SEA CO 2013)("Because truancy is a behavior that impedes learning, Student's attendance problems could have resulted in liability under IDEA if the District had ignored or otherwise failed to address this behavior through the IEP process."); *Urban Pathways Charter Sch.*, 2617/11-12-AS, 112 LRP 27526 (SEA PA 2012)("The Charter School was responsible for addressing Student's attendance issues through a study of the reasons behind the truancy, followed up with a positive behavior support plan to assist Student in achieving expected attendance. The behavior of truancy was affecting Student's learning, as noted in the Charter School's own progress reports."). See also *Downingtown Area Sch. Dist.*, 13375/12-13-KE, 113 LRP 34703 (SEA PA 2013)(The hearing officer denied the parents' claims noting that the LEA took a variety of steps to secure the student's attendance long before it filed truancy charges, including by developing multiple attendance plans, providing small-group therapy, and having the parents call the assistant principal when the student was refusing to leave home.).

required modified curriculum. The student was unable to pass the modified versions of the end-of-course assessments. Despite all this, the student's IEP requires that the student participate in the general education curriculum with minimal modifications. Though the IEP provides in-class support, it does not describe the specific supports to be provided or the frequency and duration of the supports. Finally, the IEP contains conflicting information regarding the student's educational placement. In some places, the IEP indicates that the student will receive all instruction in the general education setting with supports, while in another place it reflects that the student will merely pick up assignments from the general education teachers and then report to other teachers for tutoring or to work on PLUTO classes. Evidence in the record reflects that the student likely received instruction in resource classes and/or self-contained classes, not in a mainstream setting.

With regard to Student Two, the LEA acknowledges that campus staff did not refer the student's attendance issues to the ARD committee and that an ARD committee meeting was not held to address the student's attendance issues. The student's ARD committee met one time to conduct an annual review of the IEP. While the ARD committee left the previously developed BSIP in the student's IEP, the BSIP does not include any interventions to improve the student's attendance. Furthermore, there is no indication that the ARD committee addressed the fact that the student was in his third year of high school and had only earned 2.5 course credits. Like Student One's IEP, Student Two's IEP reflects that the student participates in the general education program with several support services that are not clearly described.



For all of the above reasons, Allegation Two is substantiated.

Conclusions and Reasons for TEA's Final Decision for Allegation Three

Authority: 34 CFR §300.116

34 CFR §300.116 requires that, in determining the educational placement of a student with a disability, the LEA must ensure that the placement decision is made by a group of persons, including the parents and other persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. In Texas, the ARD committee is the group that determines a student's educational placement. See 19 TAC §89.1050(a)(6). The student's placement decision must be made in conformity with the least restrictive environment provisions in 34 CFR §§300.114 through 300.118. The student's placement must be determined at least annually, be based on the student's

IEP, and be as close as possible to the student's home. Unless the IEP requires some other arrangement, the student must be educated in the school that he or she would attend if nondisabled.

Based on the record, TEA concludes that the LEA did not ensure Student Two's and Student Three's placements during the 2014-2015 school year were made by the students' ARD committees. Specifically, a campus principal administratively withdrew both students for excessive absences without any involvement from the students' ARD committees.

Allegation Three is substantiated.

Conclusions and Reasons for TEA's Final Decision for Allegation Four

Authority: 34 CFR §300.101

34 CFR §300.101 requires that a FAPE must be available to all children residing in the State between the ages of 3 and 21, inclusive, including children with disabilities who have been suspended or expelled from school, as provided for in §300.530(d).

The LEA acknowledges that it denied Student Two a FAPE. The LEA also denied Student Three a FAPE. In both cases, the students' chronic absenteeism and truancy issues were not referred to their ARD committees, and the administrative withdrawals ceased the provision of a FAPE to the students. The letters that the campus principal sent to the parents notifying them of the students' administrative withdrawals failed to advise the parents that the students could re-enroll or that they remained entitled to a FAPE. Although Student Three subsequently enrolled [REDACTED], the IEP that was developed at [REDACTED] did not address the student's attendance issues even though the student had a history of attendance problems and was continuing to miss school.

Allegation Four is substantiated.

Required Corrective Actions

As explained above, TEA concludes that all four allegations are substantiated. In accordance with 34 CFR §300.151, TEA must require corrective actions that address: (1) how to remediate the denial of services to the specific students based on their individual needs; and (2) appropriate future provision of services for all students with disabilities.

For Student One:

In order to properly provide special education and related services to a student with a disability, educators and service providers must thoroughly understand the instructions and provisions of the student's IEP. For that reason, an LEA must ensure that an IEP is written clearly without any ambiguous or confusing statements. Student One's most recent IEP is not sufficiently clear and does not adequately address his/her needs. Therefore, The LEA must convene an ARD committee meeting for the student as soon as possible and no later than 10 school days from the date of this report, unless the student's parent agrees to a different timeline. The ARD committee must revise the student's IEP as follows:

1. Section "IV. Present Levels of Academic Achievement and Functional Performance" (PLAAFP) of the student's October 2015 IEP is too general and carries over multiple statements from previous IEPs. The section must be revised to accurately reflect the student's actual present levels of performance and needs as indicated by recent evaluations and information from other sources. For example, instead of stating that the student's "lexile scores are significantly below grade level," the section must state the grade level at which the student is currently reading. Instead of just stating that the student "struggles during testing," the section should also include a description of what the student's issues are with regard to testing. The section must also provide specific information about the writing skills and math concepts that the student does and does not possess. Overall, the PLAAFP must be revised so that it provides sufficient detail to enable the ARD committee to develop annual goals that address the student's unique needs.
2. The reading goal in the current IEP is vague. It states that by the end of the school year, the student "reads with fluency and understanding in increasingly demanding texts." It further states that the student's baseline score was 65 percent and that the student is expected to achieve 80 percent by the end of the year. It is unclear what level text the student was reading for the baseline score and whether s/he is will be tested at that same level at the end of the year or will be expected to achieve 80 percent reading a higher level of text. Based on the student's PLAAFP, the ARD committee must develop one or more new reading goals for the student that is specific enough to allow LEA staff and the parent to understand the level at which the student is reading at the beginning of the period and whether the student made progress. The goal(s) should make clear which specific skills will be required in order to achieve the goal(s). Because the student has significant deficiencies in reading and is approaching graduation, the reading goal(s) must also include multiple benchmarks or short-term objectives that logically breakdown the major components of the annual goal(s) and serve as milestones for measuring progress toward meeting the goal(s). The benchmarks or objectives should be written in a sequential order that reflects a progression through the various skills needed to meet the annual goal(s) and permit monitoring of progress throughout the year. The goal(s) and benchmarks or objectives must be measurable in that they contain evaluative criteria, evaluation procedures, and schedules to be used to measure progress.
3. The student's ARD committee must consider whether the student's current IEP includes at least one annual goal for each area of need. The current IEP does not include a writing goal. If writing is an area of need, a writing goal should be added. In addition, the ARD committee must revise all of the annual goals to contain evaluative criteria, evaluation procedures, and schedules to be used to measure progress.
4. The IEP must be revised to provide the student with at least one 30-minute session of direct psychological services per week for the remainder of the 2015-2016 school year to assist the student with his/her anxiety and school avoidance issues. The IEP must also include psychological consultation services with the student's general education and special education teachers so that they can assist the student with his behavior and psychological goals.
5. Page 7 of the current IEP reflects that the student will have "personal care services" to prevent "behavior." It further states that the student "will have available the services of in-class support facilitation as needed" and that "special

ed staff which includes co-teachers and case managers” will monitor the student’s progress and behavior. The record does not indicate that the student requires personal care services (e.g., toileting, feeding, etc.). Therefore, this section of the IEP was likely mistakenly completed. Any needs that relate to the student’s behavioral issues and instructional services should be clearly described in the annual goals, related services section, and/or BSIP.

6. In accordance with the LEA’s *Easy IEP* guidance, the student’s IEP should describe the specific in-class support services by a special education teacher that the student will receive in each general education class. The frequency and duration of the services must also be specified. For example, the IEP could state “The student attends geometry for 50 minutes daily. A special education teacher will attend the student’s geometry class for ___ minutes ___ (insert frequency and duration) and will ___(describe instructional support to be provided).”
7. Page 24 of the IEP reflects that the student will receive “facilitated support services” in government, English IV, and English III. The schedule of services on Pages 16 and 17 reflect that the student will only receive in-class support. Page 25 of the IEP states that Mr. Patterson and Ms. McAfee will be available for facilitated support services. If the student will receive support facilitation (an indirect service) in addition to in-class support (a direct service), the IEP must clearly describe the services.
8. The ARD committee must clarify the accelerated instruction program for reading and U.S. history on page 17 of the IEP. For example, it is unclear when the student receives these services and the specific supports that are provided.
9. The ARD committee must clarify the Content Mastery services that the student will receive for science and social studies. For example, the IEP should clarify whether the student is permitted to leave his/her science and social studies classes for individual assistance in the Content Mastery room for 30 minutes two times per week or whether s/he will regularly attend Content Mastery for 30 minutes two times per week. In addition, the IEP should clarify whether the student receives one 30-minute session for science and one 30-minute session for social studies per week or whether there is some other arrangement. Finally, it is unclear whether the student goes to Content Mastery to work on science and social studies assignments or whether s/he receives reading assistance.
10. Because the student struggles in all academic areas, the ARD committee must consider whether the student should have Content Mastery services for any other areas, such as math.
11. Page 20 of the IEP reflects that the student will benefit from full inclusion in the general education setting but also indicates that the ARD committee does not recommend that the student receive all instruction and services in the general education setting. The ARD committee must resolve this apparent conflict in the IEP. It is unclear whether the student is receiving some services in a special education setting. If the student is receiving special education services outside of the general education setting, the student’s instructional arrangement should not be listed as mainstream. Given that the student is uncomfortable in some of his/her general education classes due to his/her low reading ability, the ARD committee should carefully evaluate whether the student should continue to receive instruction in general education classes or whether s/he might do better with some instruction in a special education resource setting.
12. Pages 12, 19, and 23 contain conflicting information about the state assessment that the student will take. The ARD committee should clarify whether the student

- will be taking the STAAR, STAAR Accommodated, or STAAR Alternate 2 assessment.
13. The ARD committee should clarify whether the student is receiving any dyslexia services through special education and/or general education personnel.
 14. The student is entitled to relief to compensate for the LEA's failure to address his/her attendance problems during the 2014-2015 school year. One-on-one educational tutoring must be offered and made available to the student at a location convenient for the student through the end of the 2015-2016 school year. The amount and frequency of the tutoring must be determined by the ARD committee, considering the student's schedule and tolerance for additional services and the fact that the student's IEP did not address the student's attendance issues during the 2014-2015 school year. The tutoring can be provided during or after school, but it must be in addition to the student's educational program. The ARD committee must determine the appropriate credentials for the tutor. The ARD committee must also consider whether other types of compensatory education, compensatory counseling services, and other types of compensatory related services must be made available to the student. If the student's parent declines the compensatory tutoring or other compensatory services, the LEA must provide evidence of that.

For Student Two:

Within 10 calendar days of the date of this report, the LEA must attempt to locate Student Two, who is approaching his/her 18th birthday, and his/her parent to encourage the student to reenroll and to offer to reevaluate the student. The LEA must document its attempts to locate the student and the student's parent.

Once the student is located, the LEA must provide prior written notice of its proposal to reevaluate the student. If the adult student (or legal guardian, if applicable) provides written consent for a reevaluation, the LEA must provide an independent reevaluation of the student that includes a psychological assessment. The reevaluation must include an assessment of the underlying reasons for the student's chronic absenteeism. The LEA must provide the adult student/legal guardian with a written report of the reevaluation as soon as possible and not later than 30 calendar days following the date on which the LEA received consent, unless the adult student/legal guardian agrees to a different timeline.

After the reevaluation is completed, the LEA must convene an ARD committee meeting as soon as possible and no later than 10 school days from the date of the completion of the reevaluation, unless the adult student/legal guardian agrees to a different timeline. The ARD committee must review the reevaluation report, the student's IEP, and any other relevant information. If consent for a reevaluation is not provided, an ARD committee must meet no later than 20 calendar days from the date of this report, unless the adult student/legal guardian agrees to a different timeline, to review the student's IEP and any other relevant information.

The ARD committee must revise the student's IEP to include interventions to address the student's attendance issues. The ARD committee must also consider whether the student's attendance issues and current educational needs warrant revising the annual goals, supplementary aids and services, and educational placement. Finally, the ARD

committee must resolve any conflicts and deficiencies in the IEP that are identified in this report.

The student is entitled to relief to compensate for the LEA's failure to address his/her attendance problems during the 2014-2015 school year. One-on-one educational tutoring must be offered and made available to the student at a location convenient for the student through the end of the 2015-2016 school year. The amount and frequency of the tutoring must be determined by the ARD committee, considering the student's schedule and tolerance for additional services and the fact that the student's IEP did not address the student's attendance issues during the 2014-2015 school year. The tutoring can be provided during or after school, but it must be in addition to the student's educational program. The ARD committee must determine the appropriate credentials for the tutor. The ARD committee must also consider whether other types of compensatory education, compensatory counseling services, and other types of compensatory related services must be made available to the student.

For Student Three:

Within 10 calendar days of the date of this report, the LEA must attempt to locate Student Three, and his/her parent to encourage the student to reenroll and to offer to reevaluate the student to support the student's post-secondary goals and services. The LEA must document its attempts to locate the adult student and the student's parent.

Once the student is located, the LEA must provide prior written notice of its proposal to reevaluate the student. If the adult student (or legal guardian, if applicable) provides written consent for a reevaluation, the LEA must provide a reevaluation of the student. The LEA must provide the adult student/legal guardian with a written report of the reevaluation as soon as possible and not later than 30 calendar days following the date on which the LEA received consent, unless the adult student/legal guardian agrees to a different timeline.

After the reevaluation is completed, the LEA must convene an ARD committee meeting as soon as possible and no later than 10 school days from the date of the completion of the reevaluation, unless the adult student/legal guardian agrees to a different timeline. The ARD committee must review the reevaluation report, the student's IEP, and any other relevant information. If consent for a reevaluation is not provided, an ARD committee must meet no later than 20 calendar days from the date of this report, unless the adult student/legal guardian agrees to a different timeline, to review the student's IEP and any other relevant information.

The ARD committee must revise the student's IEP to include interventions to address the student's attendance issues. The ARD committee must also consider whether the student's attendance issues and current educational needs warrant revising the annual goals, supplementary aids and services, and educational placement. Finally, the ARD committee must resolve any conflicts and deficiencies in the IEP that are identified in this report.

The student is entitled to relief to compensate for the LEA's failure to address his/her attendance problems during the 2014-2015 school year. One-on-one educational tutoring must be offered and made available to the student at a location convenient for the student through the end of the 2015-2016 school year. The amount and frequency of the

tutoring must be determined by the ARD committee, considering the student's schedule and tolerance for additional services and the fact that the student's IEP did not address the student's attendance issues during the 2014-2015 school year. The tutoring can be provided during or after school, but it must be in addition to the student's educational program. The ARD committee must determine the appropriate credentials for the tutor. The ARD committee must also consider whether other types of compensatory education, compensatory counseling services, and other types of compensatory related services must be made available to the student.

For all students with disabilities in the LEA:

The LEA has updated its school guidelines document. *The School Guidelines 2015-2016* document includes the following statement on page V-55 related to withdrawing special education students for non-attendance:

An ARD/IEP Committee meeting is required for students with disabilities who are being considered for withdrawal from school due to non-attendance. The ARD/IEP Committee should review the reasons for non-attendance and needed special education and related services. All parents of students receiving special services are exempt from truancy court filings per the truancy statute.

The ARD/IEP Committee may recommend the withdrawal of students as indicated above for students with disabilities if it is determined that the placement of the student is appropriate, the absences are not due to the student's disability, and attendance referrals have been investigated by the attendance specialist or other person assigned to address attendance issues. Schools should send the ARD/IEP Committee decision to the adult student or the parent of a minor student along with a letter informing them of the right to re-enroll.

These guidelines raise several concerns and must be revised to ensure that they are consistent with IDEA requirements. First, the first paragraph does not reflect that a student's absenteeism may trigger the need for an evaluation or a reevaluation. The reasons for the student's non-attendance may not always be evident from reviewing the student's existing data. Second, the first paragraph indicates that the ARD committee should review the services that the student currently receives but does not expressly state that a student's attendance issues will generally give rise to the need to revise the student's IEP. Third, the second paragraph reflects that an ARD committee may recommend withdrawal of a student if the student's current placement is appropriate and the student's absences are not due to the student's disability. All student with disabilities, including those who are expelled, are entitled to a FAPE through age 21. Therefore, a district that administratively withdraws a student from a campus without placing the student in an alternative educational setting and developing an IEP that will provide FAPE to the student in that setting runs the risk of a denial-of-FAPE claim.

The LEA's response to the complaint reflects that it is also revising its Board policies, guidelines, and Special Education Department operating procedures to include statutory changes relating to truancy and guidelines for the withdrawal of students with disabilities who fail to attend school. The LEA must ensure that the revisions are consistent with IDEA requirements.

Once the LEA has revised all relevant policies, guidelines, and operating procedures are consistent with IDEA requirements, the LEA must train all campus principals and assistant principals and key central administrative staff on these revised policies, guidelines, and operating procedures. The LEA must provide training on or written notice of the revised policies, operating procedures, and guidelines to all LEA staff who may be affected by the revisions, including, but not limited to, special education personnel, counselors, truancy officers, and attendance staff.

The LEA must provide training to the attendance staff, truancy officers, campus administrators, special education personnel, general education personnel, DRIP committee members and others at Worthing High School, Sterling High School, and Advanced Virtual Academy on the procedures for addressing a student's attendance issues with the student's ARD committee.

The LEA must provide training to staff at Worthing High School, Sterling High School, and Advanced Virtual Academy who develop, review, and revise IEPs. Specifically, the training must address:

1. when a student's excessive absenteeism can trigger the duty to evaluate or reevaluate the student;
2. when a student's excessive absenteeism can trigger a duty to revise the student's IEP;
3. strategies or interventions that may be included in an IEP and/or BSIP to address chronic absenteeism, truancy, and dropout prevention;
4. a student's entitlement to FAPE through age 21;
5. how supplementary aids and services, including, but not limited to in-class support, support facilitation, and Content Mastery must be documented in an IEP so that the student's services are understandable to staff and parents;
6. the details that must be included in a student's PLAAFP to enable the ARD committee to develop meaningful annual goals based on the student's needs;
7. the details that must be included in a student's annual goals, benchmarks, and short-term objectives to allow staff and parents to understand whether the student is making progress;
8. when the "Supplementary Aids and Personal Care Services" section of the IEP must be completed and the details that must be included in the section;
9. the need for all statements related to a student's educational placement to be in alignment; and
10. the requirement that changes to a student's educational placement and instructional programming and services only be made through the ARD committee process.

By **November 30 2015**, the LEA must provide TEA with a proposed timeline for completing the corrective actions or must provide TEA with the following documentation to show completion of the corrective actions.

1. copies of each student's IEP documenting the corrective actions;
2. copies of service logs or other documentation showing the implementation of the compensatory services for each student;
3. copies of the revised portions of policies, operating procedures, and guidelines;
4. copies of memoranda and/or guidance letters issued to staff; and

5. copies of the training agendas describing the information presented in the trainings and a list with the names and positions of the individuals who participated in the training.

Further intervention by TEA may result if the LEA does not provide the requested information or respond within the required timeline. In accordance with 34 CFR §300.600(e), TEA must ensure that the LEA corrects identified noncompliance "as soon as possible, and in no case later than one year after the State's identification of the noncompliance." Therefore, all required corrective actions must be completed no later than **October 30, 2016**. Failure to correct the cited noncompliance by this date will result in an additional finding of noncompliance under 34 CFR §300.600(e) and may result in additional sanctions against the LEA as outlined in 19 TAC §89.1076.

This concludes TEA's investigation of the complaint.